

Request for Issues Report on Domain Tasting

The **At-Large Advisory Committee**, with the support and involvement of the **GNSO Commercial and Business Users and Intellectual Property Constituencies**, requests the creation of an Issues Report on Domain Tasting. In addition, the **gTLD Registries Constituency** submitted a brief statement that is attached.

Domain Tasting is the systematic exploitation of the 5-day Add Grace Period (AGP) to gain access to domain names without cost. The AGP is a contractual clause in the registry agreements between ICANN and the operators of the unsponsored gTLD registries which allows for a full refund of domain charges if the name is deleted within 5 days of the add/registration. As a result, a registrant has full use of a domain name for up to 5 days at no net cost to them (other than the potential lost interest on the fee paid and then refunded).

The original intent of the AGP was to allow the no-cost cancellation of a domain registration when registrants or registrars mistyped or misspelled domain names during the registration process. However, it is now widely employed for the completely different purpose of Domain Tasting, providing domain names at no cost allowing the tracking and calculating the amount of revenue generated while the name is parked at a monetization page during the AGP. Furthermore, nothing in the AGP or otherwise prohibits the same registrant or a possibly related registrant from immediately re-registering the name after it is dropped at the end of the five day grace period. Due to virtually instantaneous updating of the zone file, the registrant can get almost continuous use of a name at no net cost (a procedure known as Domain Kiting).

Since 2001, the number of domains that are deleted within the AGP has increased exponentially. It is now estimated by some that between 2 and 4 million domain names are tied up in domain tasting or kiting every day. For a typical large registrar, the number of deletes is perhaps one percent of their total holdings. For some registrars, the number of deletes per month is regularly ten times the number of stable domain names that they hold. Clearly, typing mistakes on the part of the registrant cannot account for all of these AGP deletes.

Names to be registered for Domain Tasting can generally come from several sources:

- Variations of existing names taking advantage of spelling mistakes (typosquatting), company name/abbreviation confusion and gTLD/ccTLD confusion. Defensive registrations eliminate some of such names, but cannot realistically catch them all.
- Names not renewed by previous owners.
- Domain names composed of a recently registered second-level domains with other TLDs.

A typical individual user of the Internet (the very users that the ALAC has a responsibility to represent), does not know about arcane domain name policy, transport mechanisms, registrars, registries or even ICANN. They view the “Internet” as a holistic combination of the physical network, the policies and practices that make it work, and

their user interface, typically a web browser. They expect that when they type in a URL, it will either get them to the web site that they planned to visit, or issue an error message. One of the effects of the exploitation of the AGP is that increasingly, this is not the case. Allowing this to continue to the benefit of domain tasters who use domains names without cost is a violation of the public trust placed in ICANN.

Consequences of Domain Tasting

Possible consequences of Domain Tasting include:

1. **Destabilization of the Domain Name System** – The tremendous volume and rate of registrations and deletions associated with tasting and kiting is described as placing operational loads on Registry systems that are orders of magnitude above steady-state operations. Such incessant, systematic stress on registry systems could cause instability in the gTLD namespace or, worse, the entire domain name system.
2. **Creation of consumer confusion** – The high number of domain names estimated to be tied up in domain tasting and kiting every day (2-4 million) can result in consumer confusion and undermine confidence in the Domain Name System as domains repeatedly alternate between availability and registration for 5 day periods and legitimate users are prevented from registering their desired domain names. This user confusion is increased by the transient nature of many of the names, where they are there one day, but gone the next.
3. **Increased costs and burdens to legitimate registrants** – The ability to control (at no cost) domain names that are potentially in conflict with other registered names increases the effective cost of a domain name to its owner through increased defensive registrations and staff resources needed to monitor such potential conflicts. Registry costs must also be increased due to the volume of adds and deletes.
4. **Facilitation of Trademark Abuse** - Automated registration systems permit registration of virtually every typographical permutation of a trademark in order to test for traffic, facilitating trademark infringement on a massive level. Further, by the time the trademark owner discovers that a domain name identical or similar to its trademark has been registered, it is often too late for the trademark owner to act as the domain name has already been deleted along with the Whois data.
5. **Facilitation of Criminal Activity** – Due to the transient nature of AGP-deleted registrations, it is difficult for law enforcement to trace the registrant of tasted domains, which makes these domains ideal candidates for phishing, pharming, and other forms of internet fraud.

Relevance to ICANN's Mission

According to ICANN's bylaws, ICANN's mission is to “coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems.” The ICANN Bylaws list

11 core values that should guide ICANN's decisions and actions in furtherance of its mission.

Domain tasting implicates the following core values listed in the ICANN bylaws:

1. **Preserving and enhancing the operational stability, reliability, security, and global interoperability of the Internet** - as stated above, the increased number of registrations and deletions associated with add/drop schemes may place unexpected and uncontrollable operational loads on Registry systems which could cause instability in the gTLD namespace or even the entire domain name system.

- 5.6. **Where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment; Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest** – It is estimated that the majority of add/drop registrations may be carried out by as few as 18 registrars out of approximately 600 accredited registrars. If this is in fact the case, a small number of registrars are tying up millions of domain names that could be registered by the remaining 600 registrars, inhibiting effective competition.

7. **Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process** – Considering the possible consequences of the continued existence of the AGP and the interest this issue has generated amongst numerous internet communities, it seems clear that should a PDP be initiated, both experts and the entities most affected by Domain Tasting will be eager to participate.

Statement from the gTLD Registries Constituency

Thanks for forwarding this note to the gTLD Registries Constituency regarding feedback on the subject of Domain Tasting - specifically the utilization of the 5-day (or 120 hour) Add Grace Period during which a domain may be deleted for a full credit of registry charges.

The gTLD Registries Constituency supports your efforts for a properly framed Issues report on the above, including the soliciting of feedback on the utilization of the 5-day add grace period itself, recommended changes, the effects of such a change, and how any changes would be handled under the provisions in the existing gTLD Registry contracts relating to "Consensus Policies" and to the contractual obligations of support for the five day grace period within many registry agreements.

In addition, it is also important to recognize in the Issues Report that the Registrar Accreditation Agreements with ICANN have provisions relating to "Consensus Policies" that also need to be examined. That would have an impact on the Registrar Accreditation Agreements.

Again, we would like to thank you for your solicitation of our initial feedback and look forward to further examining this issue with the ALAC and the GNSO.