

ICANN

**Moderator: Gisella Gruber-White
July 5, 2013
10:00 am CT**

Benedetta Rossi: Thank you very much, (Tonya). Good morning, good afternoon, good evening. This is the BC members call taking place on the 1st of July, 2013. On the call today we have Jimson Olufuye, John Berard, Elisa Cooper, Angie Graves, Richard Friedman, Andy Abrams, Marilyn Cade, Aparna Sridhar, Steve DelBianco, Philip Corwin, Emmett O'Keefe, Elizabeth Sweezey and Ron Andruff.

We have apologies from Marie Pattullo and Zahid Jamil.

I would like to remind all participants to please state their names before speaking for transcription purposes. Thank you very much and over to you, Elisa.

Elisa Cooper: Thanks, Benedetta. Well, thank you everyone for joining today's BC call the purpose of which is to focus a bit on the Durban meeting. But there's been so much activity around the GAC advice, around the completed registrar accreditation agreement that hopefully we'll have still enough time to discuss some of those important issues.

Specifically on today's agenda I have a few topics that I'd like to cover. Then we'll go right into Durban planning and both Marilyn and I will cover that planning. Then Steve, we'd love to hear from you and thank you so much. Steve sent out, if you haven't had a chance yet, he sent out an overview where we are with the GAC advice and where, based on the Board resolutions that just came out last week.

And it shows basically where we've been able to get resolution and where we're still waiting to hear. But overall so far it's been very positive and Steve did a tremendous job on preparing an analysis. And that would be great, Steve, if you could take us through that analysis.

Then we have some time for John or Zahid to go through a Council update and then a bit of an update on finance from Chris Chaplow. And if there's any other things that we need to discuss there's a little bit of time for that.

So with all that said let's jump right in. And there are two items that I'd like to specifically talk about before we get into the actual planning for the Durban meeting. And the first item has to do with the Nominating Committee election.

Now I just want to bring to everyone's attention that there have been two members that have raised an issue regarding making sure we have diversity meaning, I think, that we've got representatives from the different ICANN regions - geographic regions represented.

Now I did some research and it looks as that we've not always had diversity in terms of geography or gender. And in fact in 2010 and 2011 we did not have diversity although I feel strongly that it is something that we should strive for. I think that first and foremost we need to make sure that we're electing

members who are legitimately from either large or small businesses to those respected positions.

I guess I just want to say that I'm urging members to vote for candidates keeping in mind the need for diversity but that I think first and foremost we need to focus on the fact that those seats were defined for both - one for large businesses and one for small business.

And in fact I went through the transcripts in the archives and found out - come up before in previous elections and in fact that in previous elections it's been clearly stated that those seats were defined specifically for those different kinds of companies.

So with that my real purpose in saying all this is that I will ask to keep these things in mind when we're voting but I don't have any intention on changing the votes once the vote is final. I guess I would ask if the members have any questions or issues with that, otherwise I'd like to move on to the second issue.

But let me stop here if there are any members that have any issues or concerns about what I just said.

Marilyn Cade: Elisa, it's Marilyn. Can I make a short statement?

Elisa Cooper: Sure.

Marilyn Cade: My statement is not about anything you've said. Thank you so much for making that statement; it's a different point. And that is that the workload - sorry, the workload of the Nominating Committee is now much more transparent and the attendance and participation records are much more transparent than in the past.

This is a major improvement over past Nominating Committees. I was on a Nominating Committee many years ago. And I think the additional information is important for all members to take into account and be much more visibly the amount of work that is needed.

And I do think also one thing that we should really insist on as BC members is that those who accept the nomination are able to fully commit to attend and participate the work online and the conference calls, etcetera. And if they're not able to be present at meetings due to scheduling issues that they need to take that into account before they accept the nomination.

And, again, I'm just focusing on the fact there's a lot more information publicly available to the members to take into account.

Elisa Cooper: Thanks, Marilyn. Yes, I mean, it is a tremendous undertaking and I'm sure in speaking with our current delegates they can tell you that it is a tremendous amount of work. I know that Waudo and Ron spend a great deal of their time and energy on this and so we're very appreciate of all that work.

And I'm sure members that are interested in running in this election for these delegates might want to touch base with either Ron or Waudo to find out exactly what the requirements actually are even though the information that Benedetta will be sending out shortly about the election will also provide you with a great deal of information about what the expectations are.

Okay so with that the other item that I wanted to cover quickly is the fact that the Accountability and Transparency Review Team held a call earlier this morning, it was very early, in fact, but Chris Chaplow and Jeff Brueggeman

were also on that call. And I think there were just a couple of notable issues on the call.

First of all the Business Constituency - so on the call were the ATRT members, Fiona, Alexander was on the call, Steve Crocker was on the call. There were a number of IPC members as well. Mikey O'Connor was there from the ISPs.

But I think the most notable thing from the call was that the Business Constituency was the only CSG member, the only Commercial Stakeholder Group member to actually submit comments to their questions that they had asked so that was actually a big point of discussion was about, you know, why the IPC and why the ISPs were not able to respond formally to the questions posed by the ATRT.

So far on the discussion about workload and burden and all of that but there were some other questions that were asked specifically of the BC related to the content we had submitted. And those questions were around what we meant by when we were talking about material new obligations should be used to define when it's policy versus implementation. So I gave them a little bit of background about what we meant by that.

We also talked - they also wanted to know what we really meant when we said that sometimes top down decisions are being made regarding working groups and I gave the example of the meeting strategy working group where we were asked to submit - like each constituency group was asked to submit, you know, a candidate or other times when we've been asked - the CSG has been asked that only one candidate from the CSG can go forward (unintelligible) again that issue that we've had.

And then they wanted to know specifically what kind of evidence we would want to see as proof as to whether our comments were being taken into consideration. And Jeff Brueggeman very eloquently stated that, you know, we would, you know, like to see something that was more along the lines of what we see like with - when we have our scorecards like what we see - what we've seen with the GAC in the past.

So at any rate that - I'm sure that meeting will be transcribed and available for others to hear. It was only an hour call. Any questions about either the ATRT call or anything Chris or Jeff, that you think I missed or maybe mischaracterized that you might want to provide feedback to the members about regarding the call this morning?

Chris Chaplow: Elisa, Chris speaking. No, I think that's a fair summary. As you said, it was a little bit of a ramble on overload on volunteers at the beginning, wasn't it? The only thing that comes to mind is the need for these examples. And I don't know how we managed this of where comments aren't taken into account or where it is top down, not bottom up.

But it's almost as if we need to keep a little library of examples or Bennie keeps a running list and when we know them sort of throw them across and then pick on these to use in comments and at the appropriate time. Because it's really - it's examples that rule the day rather than perhaps the allegation or, you know, statements. Thanks.

Elisa Cooper: Before we move on I see there was just an email - thank you for that, Chris. There was just an email from Gabriella Szlak. She was wanting to attend this meeting but she's running a little late. And she wanted to just say that she wants to vote for diversity.

And just to be clear - and I assume she means diversity on the Nominating Committee - just to be clear I am for diversity and I'm very hopeful that the members will vote so that we have diversity, geographical diversity and hopefully diversity in gender as well. So I am all for diversity. I just am not going to change the members' votes once they have voted.

I see, Phil, you have your hand raised? Go ahead Phil. Maybe you're on mute.

Phil Corwin: Sorry, can you hear me now?

Elisa Cooper: Yes.

Phil Corwin: Okay, sorry I've forgotten on mute. Yeah, it also came up toward the end of the call this morning that apparently ICANN has - their finance department has sent, even to non-US participants tax forms where they want to report their support from ICANN, their travel support, as taxable income so that had raised some - a concern this morning on the call and just thought that should be noted. It seemed to have been an issue that Steve Crocker was unaware of and that is not yet resolved.

Elisa Cooper: Oh. And so what call was this on?

Phil Corwin: This was on the ATRT toward the end.

Elisa Cooper: Oh. Oh I'm sorry, so you were on the call as well, that's right.

Phil Corwin: Yeah, I was on the call with, yes.

Elisa Cooper: I'm sorry. I'm sorry. Yes. That is definitely an issue. I'm sure we'll be hearing more about it. I'm not even that clear on it myself.

Marilyn Cade: Elisa, it's Marilyn. Could I just make a clarification? It's not - it's the reimbursement of travel that is being reported as taxable income, not income from ICANN such as if someone is, you know, acting as a consultant, which some members of the community broadly do, which of course, would be taxable income. But this...

((Crosstalk))

Elisa Cooper: Right, no, right, this was only for people who've taken travel support. Got it.

Marilyn Cade: Right, yeah.

Elisa Cooper: Since I don't personally take travel support it just impacts people that have taken travel support so that would be the officers and the councilors. Okay so why don't we move on through our agenda.

So the first topic was really for us to spend some time to talk about the meeting in Durban. And I think it would be useful since our first meeting starts on Sunday and it's a CSG meeting, if, Marilyn, you could kind of run us through the breakfast and the CSG meeting ,which is scheduled from 4:00-6:30 on Sunday.

Marilyn Cade: Sure. And I'm going to do this rapidly because we've covered it in the past. This is really an update. And it'll be in the transcript and then it's also reflected in the annotated agenda that Bennie had sent out.

But we're doing something that I think we should all be very proud of. We are - we've taken back 2-1/2 hours on Sunday for collaboration at the CSG level. So for your purposes you should be noting your calendars for a hour-long

discussion with Bruce Tonkin and Bill Graham who are the two Board members who are elected through the GNSO process where the councilors vote for two of the Board members.

Bill Graham is elected by the Non Contracted Party House, which includes all of us and Bruce Tonkin by the Contracted Party House. Bruce has been returned by the Contracted Party House.

Our meetings with them are going to focus on topics. I'm going to summarize those topics in one minute when I talk about what we're going to talk to the Board about. So start with Sunday morning, 8:00-9:00, that's a closed meeting, members only.

In the afternoon from 4:00-6:30 we have a working session. That session is going to focus primarily on preparation for meeting with the Board and other topics where we're trying to gain a rough consensus across the three constituencies.

The three topics are going to focus on the budget and the operating plan and the implications for our constituency's ability to do our work as well as what ICANN is spending money on that is of concern to us such as enforcement and compliance, other questions.

The second topic will focus on the demand on the community and in particular the sort of overwhelming workload that is continuing to grow and how that affects our ability to organize and provide effective input and participate in the public comment process. And the third topic will focus on GAC advice and the role of the GAC.

We'll talk about those three things with the two Board members and then we'll spend more time in our Sunday afternoon session when we then go into the next cross constituency activity which is Tuesday morning, breakfast with the GAC from 8:00-9:00.

The primary topic there is going to be GAC advice and the role of the GAC overall in ICANN. I'll make a comment about what's going on externally in just a minute related to that. We then go from that breakfast at 9:15 we reconvene as a CSG and we have two outside CSG speaker groups.

One is the - we will hear, of course, from Denise Michel and Francois who - sorry - Jean-Francois - who is the Chair of the Expert Working Group on New Directory Services, aka, replacement to Whois. Susan Kawaguchi is the appointed expert member of the BC but representing the CSG on that expert group. And she will be with us as well.

The next session during the CSG morning session is the SSAC. And the SSAC will be focusing on two of their expert reports, which have implications for security, stability and resiliency. And then we will go into our hour-long consultation with the Board.

The same three topics for - that we have talked about will be roughly what we talked about with the Board. It is possible that we will add in to the Board discussion the views going on at ICANN and the scheduling. But that decision will be taken when we meet as the CSG on Sunday afternoon in our working session.

I can take questions, Elisa, but I'd just like to remind everyone that there is, on Monday evening, from 6:30-8:00 pm a business oriented outreach reception which is funded by ICANN. It is not our Board at senior staff reception, which

we get on a rotational basis which will be scheduled Buenos Aires but is an outreach session organized by Chris Mondini. It is funded by ICANN.

And we are looking for ways to promote and encourage new Business attendees to come to that session. All of the CSG attendees will be there. WITSA and (AFITSA) are both working on bringing in Board members from Africa to attend. But we're really looking to find your business employees that are in Africa who we could also invite or to reach out to your contacts to find business user participants who could be invited to that reception as well who are local to Africa.

Thanks.

Elisa Cooper: Thank you, Marilyn. That was a fantastic recap. Thank you so much for that. Any questions for Marilyn?

Okay moving on so I would like to talk about the BC meetings in particular. So we are scheduled to meet as the BC on 12:00-1:30 on Monday. And this is a closed meeting. And I was thinking that this might be an opportune time for us to discuss the five-year strategic plan.

Essentially ICANN has sort of identified eight different topic areas where they're asking for our input. And I don't think all eight areas will be areas where we will want to provide input. But I think this might be a good opportunity for us to review the different topic areas to discuss them and identify the areas that we will want to provide comments on and then also to identify some leads for preparing those comments.

But we also have our BC meeting scheduled on Tuesday, Constituency Day, from 1:15-4:30 and some topics that I was hoping to cover are outreach,

amendments to the charter and then I'd like to spend some additional time on the Expert Working Group and how we are going to respond to that.

But at this point what I really wanted to do was open it up to members to hear from you the topics that you would like to discuss. So I'd love to hear from any members about specifically what you would like to hear about or what we should be discussing or, you know, topics that are of interest to you.

Is everyone okay with those topics I've...

Marilyn Cade: Elisa? Elisa, it's Marilyn. Can I add a topic? And it may be...

((Crosstalk))

Elisa Cooper: Okay.

Marilyn Cade: And so Fadi is talking about - I think - again this may be inherent in what you proposed. You know, we have a regionalization strategy going on at ICANN and there will be - there are now strategies being developed and finalized for Africa, for LatAm, for Latin American and the Caribbean, for the MENA region and emerging for Asia.

And we're very fortunate that in their individual capacity Jimson and Waudo Seganga and a couple of other folks affiliated with WITSA are actively engaged in the strategy - African strategy for ICANN. And Gabby and (Celia) are actively engaged in the LatAm strategy.

But it seems to me - I'm actively engaged in all of them - but it seems to me that discussing the internationalization of ICANN might be a good topic for us to embed in our discussion. That would be one.

And the second item is Fadi (unintelligible) the suggestion that it is time for us to talk about whether ICANN's mission is fit for purpose for the next 15 years.

Elisa Cooper: Thanks, Marilyn. Yeah, I think that might be something we would be covering both partly in the strategic planning discussion on Monday and also in our outreach session on the Tuesday.

Marilyn Cade: Great.

Elisa Cooper: But thank you for pointing that out. Are there any other thoughts from any other members about things you'd like to discuss or even things you'd like to review or have other members who maybe know about a particular area present on?

Steve DelBianco: Elisa, it's Steve.

Elisa Cooper: Yes.

Steve DelBianco: One thing I know that Bill Smith of PayPal was passionate about - he's not on the call right now - and former BC member, Mikey O'Connor, is they were very concerned about potential conflicts where corporate enterprises are using internal certificates where the internal certificate is the same as some of the new top level domains, DotCorp, remember that, DotOffice, DotHome...

Elisa Cooper: Yes, yes.

Steve DelBianco: Yeah, so I think that the time is pretty much now to figure out whether we think the risk mitigation plan that's been laid down for that is adequate because it ends up affecting business users more than anyone else, business

users and registrants who have got internal certificates for secure intranet infrastructure. They're the ones that end up getting messed up about this. I think it's worth 10 minutes if we can fit it in...

((Crosstalk))

Elisa Cooper: Absolutely.

Steve DelBianco: If SSAC is coming in it's something Patrick can respond to. But I wouldn't want to short circuit Bill Smith. If he's not there I'll work with Bill to understand the depth of his concern so we can ask intelligent questions of Patrick.

Elisa Cooper: Oh that's great. I'll definitely do that. And I think probably we should take more than 10 minutes so I'll make sure we have enough time to cover that.

((Crosstalk))

Bill Smith: Steve and Elisa, this is Bill. I am on the call. And, Steve, thanks for bringing that up. That is an issue of concern. I will not be in Durban. I'm not going to travel 100 hours to attend about, I don't know, 10 hours of meetings. So that's a concern.

The other one - and I'm going to try and talk with Susan Kawaguchi privately - is the Expert Working Group report. I have serious concerns about the proposal. And I'm still formulating what they are. But one of my concerns is - first concern is this is an Internet scale operation and any time there's a suggestion that we have a centralized anything that really raises issues in my mind.

And secondly, given that it is centralized the requirement that security professionals, law enforcement folks, somehow be vetted probably means that information will be kept about those individuals in a centralized place. That is very concerning.

It makes that almost - it makes the centralized entity an extremely enticing target for criminals even beyond the, you know, the fact the there will be, you know, millions of sort of registrant information that is centrally available.

But if there were a data breach on the security operational professionals and law enforcement database that could have massive repercussions. And so I'm still thinking about it but I don't think anyone is paying - personally don't think there's much attention is being paid to the privacy aspects of those who actually attempt to enhance people's privacy.

And then the cost of operating this, the operational issues related to this, are just massive. And they're just - I don't know - a large number of issues with this. Who will determine whether someone is law enforcement or not internationally? Or who will determine whether someone is an appropriate security professional?

Steve DelBianco: Oh we'll get the US FISA Court to do that.

Bill Smith: Well, yeah, exactly. I think ICANN is asking for trouble here if they think they're going to establish a centralized international authority for determining who should and should not have access to certain types of information. Yeah, I have - I'm still thinking about this but, you know, your point, Steve, is one of the things I'm concerned about is, yeah, FISA, we'll have an international FISA and it will be ICANN. This could push people to say, yeah, we've got to

move over to the ITU. If ICANN is - or ICANN is going to contract with the ITU or somebody to operate this. I see no way that this can work.

Elisa Cooper: So, I did talk to Susan Kawaguchi. And she's traveling but she'll be back in the office on Monday. And she has very graciously offered to meet with us as a group to kind of give us her perspective and for us to spend some more time talking about it, the Expert Working Group, the report.

Would members be interested in having that call next Monday? I realize it's not on our schedule and it's, you know, we've been meeting frequently as it is. But I think this is very important. So would members be okay or be interested in having a call at our regular time but next Monday?

((Crosstalk))

Marilyn Cade: Yeah, it's Marilyn. I would strongly support that. I hear what Bill is saying and I have some of the same concerns but some other concerns about distributing the data. I think talking about it is important to us as Bill has highlighted a number of concerns, there are some others associated with distributing the data that also need to be addressed.

Elisa Cooper: Okay so I see just one other person is kind of willing to have a call next Monday. Let me just make sure that's accurate. So if you use in Adobe Connect if you'll use the little thing where you can raise your hand or you can clear agree or disagree.

If I can just see people that want to meet next Monday if you can click Agree and if you don't want to meet next Monday if you can click Disagree that would be helpful just to get sort of a rough estimate because I don't want to have a call if, you know, there isn't really going to be much participation.

Bill Smith: Elisa, this is Bill. I'd be interested but I have a conflict.

Elisa Cooper: Okay. I see that there are a couple of people so...

Marilyn Cade: Could we do a Doodle?

Elisa Cooper: We could but since it's next Monday I want to try to get it on people's calendars as quickly as possible. I see that Steve cannot make it. Why don't we go ahead and have the call and then still plan to discuss the Expert Working Group report in Durban as well because I think there is a tremendous amount of information to cover and I know even for myself would be helpful. So there are a few people so let's go ahead and have that call.

Okay so moving on so we have - we do have some information. We'll still try to cover those - some of those security issues in our discussion though I think that does still make sense even though Bill won't be there.

Other items that we should consider covering either in our closed session or in our meeting on the Constituency Day on Tuesday? Anything else that people would like to make sure that we're discussing or talking about? Okay so I have a strategic planning outreach, our charter amendments, Expert Working Group, security issues and the items that Marilyn had mentioned I think in corporate in the strategic planning discussion and outreach.

Okay if anybody has any other ideas or things that you'd like to discuss our meeting on Tuesday let me know. Also on the Tuesday as a reminder Yahoo has graciously agreed to host a mixer which will be held at the (Wivit)'s bar which is in the Durban Hilton and that will be on the Tuesday from 6:30-8:00.

And just as a reminder Benedetta will be preparing an agenda that will highlight all of these different meetings so don't worry about trying to take note of when each of these meetings is occurring and exactly what we'll be covering. She'll be sending out an agenda as we get closer to the meeting.

And then always on Wednesday we have a closed session which we will reserve that's 12:30-2:00. That will be reserved as prep for the public forum.

So I think we're, in that case set for the Durban meeting. Anything else anybody would like to add or comment on or say about the Durban meeting?
Okay...

Marilyn Cade: Elisa?

Elisa Cooper: Yes.

Marilyn Cade: Elisa? There's one topic I'd like to just raise with the members for consideration. It has been a long time since we have had an actual Board meeting.

And I wonder if we could actually maybe add to our consideration calling on ICANN to have a real Board meeting in Buenos Aires rather than these one-hour meetings where they basically tell us about decisions they've taken but don't really have any kind of discussion in front of the community. Even if it's only one real Board meeting a year it might be good to think about.

Elisa Cooper: Yeah. Let's keep that for our discussion on the Wednesday, that might be something we bring to the public forum.

Marilyn Cade: Thank you.

Elisa Cooper: Phil, I see your hand - you have your hand raised? And, Phil, I'm sorry just to reiterate, I know you were at the meeting so I was not trying to...

((Crosstalk))

Phil Corwin: No, I had a comment on what Marilyn just said about Board meetings. I think we should go further. When the Board announced - I forget at which meeting - that they would no longer hold Board meetings at ICANN meetings I suggested that what they really need to be doing is basically, except for portions they need to redact, is Webcasting their Board meetings.

I don't know why everything else at ICANN is transparent and has open access and recordings but when it gets to the top level of Board decisions it's all very opaque and all we get is a summary. We never get to hear or even see a transcript of the actual discussion. And I think that's at odds with the transparency commitment and I would hope the BC would go further and urge ICANN to open up Board meetings in some further way.

Elisa Cooper: Thanks, Phil. Anything else that you think we should be covering in our discussions at the Durban meeting? I've taken a note of that issue, Phil and Marilyn.

Okay so let's move on and get to the real meat here. Since Steve has already sent out a really good analysis of what has happened with the Board resolutions. I think it makes sense to try to spend some time and hopefully we can - John, are you - how long will your GNSO Council update be?

John Berard: This is John Berard. There's really only one item that I wanted to spend any time on and it has to do with a motion that's been offered regarding Board consultation with the Council.

Elisa Cooper: Okay. Why don't we go ahead and take that so that we can really devote the bulk of our time to the recent Board resolutions and the RAA and other things if that's okay with you.

John Berard: Sure, not a problem. As you may be aware, for those of you who aren't on the (unintelligible) and like to read more than most humans need to there are bylaws allow that if the Board chooses to act differently than guided by a policy developed by the Council that there needs to be consultation.

Over the last couple of years there have been many other inputs, as they say, from the Council to the Board; most at the Board's request, that fall outside the PDP.

And often there's - that advice - call it advice although small A advice, not big A advice, such as the GAC or ALAC, is (unintelligible) and there's no consultation with the Council as to why. So it has to be with rationale.

This is - this came to a head in the mind's of many of my co-councilors with regard to the NTUC reconsideration request on the 50 plus elements of the trademark clearinghouse. I apologize for using some jargon, I hope it's not impenetrable.

And what is on the Board right now is a motion that there should be consultation by the Board with the Council when it decides not to follow this official but outside the scope of the PDP advice, that is either solicited or offered by the Council on matters of import.

Elisa Cooper: Okay.

((Crosstalk))

John Berard: My inclination here is to vote in favor of this motion because there is so much more of back and forth now between the Council and the Board and an increase in the request from the Board for input by the Council that I think expanding the required consultation is probably a very good idea.

Elisa Cooper: I see Steve has his hand raised.

Marilyn Cade: And it's Marilyn, I'd like to get in the queue as well.

Elisa Cooper: Steve.

Steve DelBianco: Thanks. Hey, John, it's Steve. A question for you: Is this really about the reconsideration request from the Non Commercial parties over the Strawman solution? Is that really the subtext behind this general resolution?

John Berard: I would say that that's the (unintelligible) that pushed what had been a online conversation into a motion. But that the motion addresses a much more basic matter than - I mean, it speaks to the request from the Board for the input they wanted on competition and trust, right? We've never heard back from the Board on that.

Steve DelBianco: That's right.

John Berard: So there are many signs that we are asked for advice and it either goes into a black hole or it appears to be ignored and rather than just say, you know, oh

well there is thinking that we should officially expand the requirements of consultation beyond the PDP.

Steve DelBianco: And, John, just one follow up. To the extent this is really about the Strawman decision being implementation rather than policy the Board Governance Committee last week, once again rules that it was implementation and that a reconsideration request would be denied. And that was published by the BGC on June 25. I can put the link into there to the window in case anyone wants to look at it.

John Berard: No, I understand that. And that led to a modification of the motion and a clarification as well that the motion is not about the decision; the motion does not seek to overturn, endorse or otherwise change the decision on the 50 plus but it seeks to - initially was focused on what it felt was - the discussion focused on what some of my co-councilors thought was faulty reasoning that group led essentially by Jeff Neuman is placated by the changes that are in that decision (unintelligible).

(Unintelligible) mentioned but that it highlighted for that group, and for many of us, the (unintelligible) an official - a consultation by the Board with the Council when it decides to do something other than we thought it needed. So it's not a question of torches and pitch forks, it's just the question of consultation. Anybody there?

Elisa Cooper: Yes.

Marilyn Cade: Elisa, it's Marilyn. Can I comment?

Elisa Cooper: Yes, but let's try to leave Steve some time to go over his issues as well.

Marilyn Cade: Oh I will. But let me make this - let me make this quick. Consultation with the Council the Board - about PDPs is appropriate. Consultation about implementation where there has been extensive public comment from the constituencies, the stakeholder groups and the community going back to only the Council for consultation is not appropriate and cuts out the diversity of perspective that we have all brought. And I'm going to use the Strawman as an example.

So while I do - I'm wondering if we can have more discussion about this while we're together. This might be a topic to add in because we've seen increasingly how our voice is not really taken into account within the Council right now.

And if the Board just goes back to the Council for this consultation our voice and our councilors are going to be isolated and our concerns are going to be diminished.

Elisa Cooper: Yeah, this probably deserves some further discussion. So, yes, let's plan to discuss this while we're in Durban. Marilyn, if you can lead this discussion I think - or John or jointly.

Marilyn Cade: Happy to. And I'll ask...

((Crosstalk))

John Berard: ...the only point that I would make before we move on is that we're not - this motion does not cover everything from pillar to post, it only covers those instances where there has been something other than a PDP forwarded to the Board by the Council when that advice (unintelligible) is not followed. There is - it would require that there be some consultation at the Council as to say

why it was not followed; it does not diminish or eliminate the more important, in my view, constituency by constituency conversation with the Board.

Elisa Cooper: Okay. Can we wait to have this discussion, John? Or do you need to take this back to the Council?

John Berard: No, no, no, we can talk about this on Tuesday at our constituency day. The vote won't come until Wednesday. And it looks as if the ISPC has already expressed an interest in deferring it so.

Elisa Cooper: Okay, okay. All right let's move on. Steve, if you can give us an update of where we are at with these recent Board resolutions, what it means to the new gTLD program, that would be great.

Steve DelBianco: Thanks, Elisa. My objective would be to do a review of the current status but I really want to learn from BC members any further questions they have or concerns. I may not be able to answer them but my point is to gather all those questions and concerns so they can guide our discussion going into and at Durban.

And so I'm pretty sure that responding to GAC advice will be the number one topic in the Durban meeting. So for those who haven't opened it yet last night I emailed a Word doc which is a table summarizing the GAC's advice and then responding to Marilyn Cade's request I put in a column of the BC's position on each advice element and then a column on ICANN's response.

Now I found it necessary to do a table because in this instance ICANN was even more confusing than usual at being able to figure out how everything ties together. And this is because the New gTLD Program Committee, or NGPC, as we call them, has done separate meetings on different pieces of the GAC

advice. They've done separate resolutions on the GAC advice. And there are still two or three more to come.

They're meeting tomorrow, for instance, July 2, and their agenda includes the Category 1 safeguards as well as some of the international governmental organizations, or IGO protections. So there's still more to come, this is an interim scorecard.

So, Elisa, I will start to walk through and highlight just a few items, I'm not going to read, of course, everything in the doc. But what we would do is I'll watch the Adobe Connect and anyone who has a comment just comment as we're going and I'll stop talking and listen to your questions and commentary.

On the first page under Safeguards for all gTLDs, I want to highlight that the 25th of June resolution - and my email has links to all of these resolutions for those of you who want to look at the gory details. Since they're covering all new gTLDs that includes the Category 1 gTLDs; Category 1 were those requiring consumer protection if you recall.

So there's a good chance that the Board has already done most of the work it intends to do since it's trying to address all gTLDs and not just focusing on the consumer protection one.

I think one of the most important conclusions that the NGPC - that's the New gTLD Program Committee, reached was that they've taken a look at Whois accuracy and said we've got to own this. So ICANN is stepping up to do verification checks on the accuracy of Whois data, you know, short on details about how frequently and how deeply and widely they'll do the statistical tests

We don't even know how they'll do the test. But they committed to do that and to provide the data and compile the data on the accuracy of Whois. That was a bold move and very indicative of a Board that wants to be responsive to the GAC.

The BC, when we commented on this accuracy check, we thought that this would be something implemented through registrars in the RAA since the registrars have the relationship with registrants. But I'll stop here and ask what does the BC think of having ICANN step in to the Whois verification business? Take a queue.

All right seeing nothing let me move on to the next one. On Item 3 under Safeguards B we said that GAC advice was, for the registry, to do periodic checks on the Websites in the domains in their zone to see if there were security threats there like pharming and phishing and malware and then they would notify the registrar and registrant to suspend.

The BC loves the idea of security checks but we think it's a bit much to ask every registry to scan all the sites so we suggested that ICANN develop standardized methods and processes, maybe even approved vendors who could designate, so we could do a standardized security sweep. If you don't do it that way each registry does it differently. And we end up having very little confidence that the security sweeps are raising our level of trust.

So what I'll note in the third column is that the NGPC said that the Registry Agreement will require periodic - I don't know how frequent that is - periodic security checks and they implemented it with a new clause in the Public Interest Commitments Specification. So now the PIC Spec doesn't contain just voluntary commitments it contains commitments that ICANN is baking into

the PIC Spec and therefore they are obligatory on all registries who sign the agreement.

Many of the details here are left to a community process to figure out how to do these security checks. Any Business Constituency members have questions or comments on this? Elisa, you're first in the queue, go ahead.

Elisa Cooper: So, yeah, so I read that they're going to allow for like a PDP or experts to devise exactly how this will be done. So I guess my question is, I mean, knowing how long that can take people are going to be - or applicants are going to be signing these agreements and not (performing) until it's actually defined specifically how it will be accomplished? It just seems a little odd.

I guess the other thing I would mention is I'm very curious to hear about how Compliance will be, you know, evaluating and ensuring that these requirements are met.

Steve DelBianco: Yeah, I think this was a balance, Elisa, between timeliness, trying to say yes to the GAC, not slow the program down but defer some of the heavy lifting for later. And...

Elisa Cooper: Yes.

Steve DelBianco: ...you're right, Compliance won't really be able to say whether registries are doing what's in the PIC Spec until we go through the PDP process of figuring what a security check looks like and what a notification is. And if you recall the...

((Crosstalk))

Steve DelBianco: ...also a bit concerned about the notion of suspending domains and that we thought there should be standard processes for suspending domains that respect the due process and other rights of registrants.

Elisa Cooper: Yeah, no, to me it just feels a little bit like a checkbox. I mean, I'm glad to see it, I think it's, you know, it'll probably result in more security. But it also feels like they just wanted to get something done so they can say yes.

Steve DelBianco: It also results in more work for us because we'll end up being the leader in the PDP process to figure out the security checks that are done.

Elisa Cooper: Right.

Steve DelBianco: All right, let me move on to the bottom of Page 1 under Number 6 - I'm sorry, go ahead.

Bill Smith: Yeah, sorry. I'm in my car and it's going to be noisy. I think these - this is a good idea, the concepts, I think that though for implementation people should be looking for things that may be easier rather than more difficult. (Unintelligible) and as part of their transparency report. And it may be possible that there's more detailed information there that registries could use.

So this may not be as difficult as some people think. There's a lot of work being done in this space and there's no reason for ICANN to duplicate it. So asking registries to do something about site domains, etcetera, that are in fact hosting malware I think is appropriate.

Steve DelBianco: Got it, Bill. All right let me move on. The bottom of Page 1 talked about the registries, the GAC wants registries to ensure immediate consequences including suspension for either inaccurate Whois or for a domain that was

used in breach of applicable law. And the BC supported it noting that ICANN needs to develop standard processes for suspending domains. We didn't go so far as to say they needed to describe applicable law.

And I wanted to suggest that on the June 25 resolution from the New gTLD Program Committee they said that the new Registry Agreement will require any registrar selling new names to put this into their terms of service. And the way it was written is that violations of applicable law or inaccurate Whois are grounds for suspension.

Now what I note to you all is that that means that the registrars may, but not must, suspend domains that are violating applicable law or have notoriously inaccurate Whois. So the question for the BC is would the BC prefer something stronger than that it grounds for termination? Should we start to insist that it actually be a drive for terminations of suspending of a domain?

Take a queue on that.

Marilyn Cade: Steve...

((Crosstalk))

Steve DelBianco: In the past the BC has been strong about wanting to suspend domains that had a pattern of practice of cyber squatting, inaccurate Whois or malware and security threats.

Marilyn Cade: Steve, it's Marilyn. I'm wondering if we could also maybe send you comments by email afterward because this is one that I think could take further discussion. I think it's important but we may not have time today.

Steve DelBianco: Yeah that's always the case. We'll take emails at any time. Try and be - move things along then. Let me skip to the next page. I have a quick thing to note is that all these Category 1 advice items in Category 1 are what are known as consumer protection strings or sensitive strings and those in regulated markets.

And if you recall the GAC gave us a non-exhaustive list of many, many TLDs at the Beijing advice. And I'll note that the new gTLD program committee is meeting tomorrow and it intended to address items 1-5 right here on Page 2. At the very bottom of Page 2 I pick up Items 6, 7 and 8. And this is safeguards that are special industries like finance, gambling, professional services, environment, health, medical, fitness and charity.

Those particular Category 1 safeguards haven't been addressed by the New gTLD Program Committee, you know, maybe they would to the extent that covering all TLDs. But there's no special address to that. And it's not on the new gTLD agenda for tomorrow.

So unless I'm missing something one of the key elements of GAC advice is still not going to address and hasn't even been (agended) prior to Durban. Does anyone have any other insights on how the Board intends to address that element of GAC advice?

Okay so you're as confused as me. Thank you. I'll keep an eye on that.

Moving to Category 2, Category 2 TLDs are those gTLDs that are going to restrict who can register domain names. They're going to have restrictions on who can get in. I didn't say exclusive, that's coming up a little bit later. But any TLD that claims, like DotBank, that it would only allow banks to have a TLD. Those are community-based TLDs in many cases.

The 25th of June resolution takes a little bit of a different tack on this. It tries to establish a general principle that'll be in the PIC Spec that transparent, open and non-discrimination are sort of the general principles for letting registrants get a domain name.

But given that general principle they understand that registries may be restrictive on who can get in, especially in an industry that needs to be protected. And they just need to be transparent and nondiscriminatory about that. And that really echoed what the GAC asked for and it echoed what the BC suggested.

They went on to address Number 2 on the bottom of Page 3 which is that a generic gTLD could have an exclusive registry access and that GAC wants to allow that only where it serves the public interest goal. And they ended up coming up with a long list of generic TLDs where they had that concern.

The BC supported the concern. We suggested ICANN look at policies along the lines of what Australia had put forth. We also suggested that the public interest test in the Registry Code of Conduct should be fleshed out further so that we understand the criteria and process for determining whether it meets the public interest.

What the Board did last week, what the Board Governance Committee - sorry, the Board New gTLD Program Committee did, is that a generic string - and they defined generic word is, it's just what you expect it to be, cannot impose eligibility criteria for registering names to a single person or entity or to that person's affiliates.

But having said that I want to point out that any generic exclusive operator can still get up to 100 second level domains for any purpose they wish and withhold those from public distribution. So that's still allowed in keeping with this new PIC Spec. So they don't conflict but it just says it isn't an iron clad prohibition.

In fact 100 is quite sufficient to generate an awful lot of interesting categories at the second level. The BC's comments on this pointed out that DotDrugs hypothetical TLD, DotDrugs and an exclusive operator could keep 100 different second level domains capturing every category of drugs and then open up the rest to the public and thereby avoid being considered exclusive generic but could well control all of the relevant categories at the second level.

I think I heard a voice. Anybody wanted to speak up? All right I'll wrap this up quickly.

The New gTLD Committee also told staff to not move forward with contracts on any applicant who wants to have an exclusive generic TLD. They put a hold on that pending a dialogue with the GAC. And perhaps that dialogue will happen in Durban.

So some BC members who have pursued closed generics are going to find themselves wanting to get through evaluation but it looks as if we can't proceed to contract until that dialogue occurs.

Lastly, singular versus plural, we had some hope because on June the 4th the New gTLD Program Committee told the GAC that they, quote unquote, accepted their advice to reconsider singular plural but last week the same committee resolved that they're fine with the singular plural contention set

decisions. They're not going to make any changes and they're going to stick with the panel's decision.

That's very disappointing and I do believe creates terrible precedent for the next round. And it's going to be very confusing to consumers maybe even expensive to brand owners. That's it for my part. Elisa, thanks for your patients.

Elisa Cooper: Oh no, thank you, Steve. Again, tremendous effort and we all really appreciate it. I wanted to see, Chris, can we do your update when we are in Durban or it is important to do it today?

Chris Chaplow: It isn't actually because I was just going to give a summary of where we're up to, Elisa. We've submitted our comments to the forum and our reply comments. We still haven't had the ICANN summary and replies to our questions. Our comments were mainly questions. Originally it should have been 21st of June then it was posted to the 25th and I think Angie send an email.

So we still (unintelligible) that. And I noticed the 16th of May Board Finance Committee - can you hear me? Yes, the 16th of May Board Finance - the authority for us to continue because today we're into the new year so ICANN can't function without an approved budget for the Board to approve in Durban.

So I think that's what's happening now, the authority has been given and the budget will be approved in Durban. What mechanism exactly leading up to that or whether it will be part of the show Board meeting, I'll use that word, I assume. That's about all I can say (unintelligible) questions.

Bill Smith: Okay so this is Bill Smith. I have a quick question for Steve. And that is is the singular versus plural a final decision?

Steve DelBianco: Yeah, great question. I believe it is. The New gTLD Program Committee is the only one who's not recused. And their decisions then go to the full Board but I don't think the full Board can override.

Bill Smith: Okay thanks.

Elisa Cooper: Thank you both, Steve and Chris (unintelligible) tremendous effort from actually both of you. With that I'm going to go ahead and close today's call. Thank you, again, everyone for joining. I will be working with Benedetta to set up a real informal call next Monday to meet with Susan Kawaguchi so we can get some additional feedback on the Expert Working Group.

But also expect to see from Benedetta an agenda for the upcoming meeting in Durban including specific agendas for our BC meeting. So thank you so much to everyone and I look forward to seeing many of you in Durban. We'll talk to you soon, bye-bye.

Chris Chaplow: Bye-bye.

Marilyn Cade: Bye. Thank you.

Benedetta Rossi: Thank you.

END