



Minutes: BC Members Call July 1st, 2013: 11 am EST (3 pm UTC)

Attendees:

Elisa Cooper	Gabriela Szlak	Philip Corwin
Steve DelBianco	Andy Abrams	Emmett O’Keefe
Chris Chaplow	Elizabeth Sweezy	Ron Andruff
Marilyn Cade	Laura Covington	Bill Smith
John Berard	Frederick Felman	Benedetta Rossi – BC
Jimson Olufuye	Sarah Deutsch	Secretariat.
Anjali Hansen	Marie Pattullo	

Apologies:

Ayesha Hassan
Zahid Jamil

1. Review of Agenda and Other Open Items – Elisa Cooper

Elisa Cooper:

- Reviewed the agenda for the call and asked for members’ input for the Any Other Business slot.
- Topics added:
 - Elisa Cooper: Nominating Committee Election, ATRT2 call.

Nominating Committee Election:

Elisa Cooper:

- Elisa brought to members’ attention that two BC members have raised an issue regarding ensuring that the BC delegates on the Nominating Committee show geographical diversity.
- Elisa, based on research done on previous delegates from the BC, stated that the BC has not always had diversity in terms of geography or gender.
- In 2010 and 2011 the BC did not have diversity.
- Elisa noted that the BC should strive to have diversity, but that first and foremost the BC needs to ensure they are electing members who are legitimately from either large or small businesses to those respected positions.
- Elisa urged members to vote for candidates keeping in mind the need for diversity, but that the first focus should be on the fact that those seats were defined as follows: one for large business and one for small business.

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- Elisa went through the transcripts in the archives and found out that in previous elections it's been clearly stated that those seats were defined specifically for those different kinds of companies.
- Once the votes are cast there will be no extension or change of votes based on diversity.
- Elisa then opened it up for members to raise questions or concerns on this matter.

Marilyn Cade:

- Marilyn made a statement regarding the workload of the Nominating Committee which is now more transparent than it was in previous years, as well as the attendance and participation records.
- Marilyn noted that this is a major improvement over past Nominating Committees.
- The additional information is important for all members to take into account and shows much more visibly the amount of work that is needed of delegates on the Committee.
- BC members who accept the nomination need to ensure they are able to fully commit to attend and participate in the work demanded by the NomCom, both online, on the conference calls and at the ICANN meetings themselves.
- If members think they are not able to be present at meetings due to scheduling issues, they should take that into account before they accept the nomination.

Elisa Cooper:

- Elisa agreed with Marilyn and noted that serving on the NomCom is a tremendous undertaking due to the workload.
- Elisa also conveyed her appreciation of the current BC NomCom delegates Waudo Siganga and Ron Andruff.
- Members who are interested in running in this election might want to touch base with either Ron or Waudo to find out exactly what the requirements are even though the information that Benedetta will be sending out shortly about the election will also provide members with a great deal of information about what the expectations are.

ATRT Conference Call:

Elisa Cooper:

- The Accountability and Transparency Review Team held a call earlier this morning. Chris Chaplow and Jeff Brueggeman were also on the call.
- Elisa mentioned that the most notable point from the call was that the Business Constituency was the only CSG member to actually submit comments to the questions that they had asked.
- A large point of discussion was about why the IPC and why the ISPs were not able to respond formally to the questions posed by the ATRT.



- The ATRT asked some clarifying questions about different areas, specifically around what the BC meant when referring to what material new obligations should be used to define policy versus implementation.
- Elisa provided background about what the BC meant by that.
- The ATRT team asked specifically what kind of evidence the BC wanted as proof to show comments are taken into consideration. Jeff Brueggeman stated that the BC would like to see other instances like what occurred with the GAC scorecard in the past.
- Elisa noted that the meeting was transcribed so other members should be able to read the transcript.

For more details regarding the ATRT call please refer to pages 6-8 of the transcript.

2. Durban Planning & CSG Update – Elisa Cooper/Marilyn Cade/All

Update on CSG activities & meetings in Durban:

Marilyn Cade:

- Update on CSG meetings: please also refer to the BC Secretariat’s Annotated Agenda for BC Members.
- Sunday morning: 8:00 am – 9:00 am : closed meeting with Board members Bruce Tonkin and Bill Graham for a collaboration at the CSG level. Bruce and Bill 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 and Bruce Tonkin by the Contracted Party House.
- Topics for Sunday meeting with Board members:
- Sunday afternoon: 4:00 pm - 6:30 pm: CSG working session. Focus of this session: primarily on preparation for meeting with the Board and other topics where we're trying to gain a rough consensus across the three constituencies.
- Topics to be discussed with the Board:
 1. 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.
 2. Demand on the community and in particular the overwhelming workload that is continuing to grow and how that affects the community’s ability to organize and provide effective input and participate in the public comment process.
 3. GAC advice and the role of the GAC.
- Tuesday morning: 8:00 am -9:00 am: Cross Constituency breakfast with the GAC.
- The primary topic: GAC advice and the role of the GAC overall in ICANN.

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- Tuesday: 9:30 am -11:15 am: open CSG meeting.
- Speakers:
 - Expert Working Group (EWG)
 - SSAC - focusing on two of their expert reports, which have implications for security, stability and resiliency.
- 11:15 pm – 12:15 pm: CSG discussion with the Board, discussing the three topics previously mentioned.
- Monday evening: 6:30 pm – 8:30 pm: business oriented outreach reception funded by ICANN (see annotated agenda) organized by Chris Mondini.

BC Meetings:

Elisa Cooper:

- Elisa went over the meetings scheduled for the BC and potential agenda topics for members to discuss.
- Monday 12:00 pm - 1:30 pm: closed BC meeting. Elisa proposes to discuss ICANN’s 5-year strategic plan.
 - ICANN has identified eight different topic areas for input.
 - This meeting would be a good opportunity for the BC to review the different topic areas to identify potential areas for the BC to submit comments on and identify rapporteurs.
- Tuesday, Constituency Day, from 1:15 pm - 4:30 pm.
 - Proposed Topics: outreach, amendments to the BC Charter, Expert Working Group and how the BC is going to respond to it.
- Elisa opened the discussion of potential topics for these meetings to BC members.

Marilyn Cade:

- Fadi Chehadé, ICANN CEO, is a regionalization strategy currently occurring at ICANN and there are strategies being developed and finalized for Africa, for Latin America and the Caribbean, for the MENA region and emerging for Asia.
- BC Members Waudu Siganga, Jimson Olufuye, Gabriela Szlak, Celia Lerman and Marilyn Cade are very actively engaged in these strategies.
- Marilyn proposes discussing the internationalization of ICANN at the BC meeting and whether ICANN’s mission is fit for the next 15 years.

ACTION ITEM : Elisa Cooper agreed to discuss these item in the outreach portion of Tuesday’s meeting and in the 5-year strategic plan discussion on Monday.

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Steve DelBianco:

- Bill Smith (Paypal) is very concerned with 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, DotOffice, DotHome)
- Steve noted that it is time to figure out whether the BC believes the risk mitigation plan that has been laid down for this issue is adequate.
- Business users and registrants who have got internal certificates for secure intranet infrastructure will be most affected by this.
- If the SSAC joining the BC/CSG in one of the meetings, then Patrick can respond to this issue.

ACTION ITEM: Elisa Cooper agrees to discuss internal certificates in Durban.

Bill Smith :

- Bill suggested discussing the EWG Report since he has serious concerns about the proposal.

ACTION ITEM: Following a discussion regarding the EWG, Elisa Cooper proposed to schedule a call with Susan Kawaguchi to discuss the Expert Working Group with BC Members, on Monday, July 8th at 11 am EST.

Marilyn Cade:

- Marilyn noted that it has been a long time since the Board actually held a Board meeting at ICANN meetings.
- Marilyn proposed to add to the BC’s agenda or as topic of discussion to ask ICANN for the Board to have a real meeting in Buenos Aires, rather than the one-hour meetings where the Board announces what they have decided, without discussing topics/issues in front of the community.

ACTION ITEM: Elisa Cooper agreed to add the Board meeting to the discussion on Wednesday’s closed BC meeting as a topic to bring to the Public Forum.

Phil Corwin:

- Phil noted that in addition to Marilyn’s request for a proper Board Meeting, the Board should actually Webcast their meetings, except for portions where they need to redact.
- Phil noted that 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 opaque and all we get is a summary.
- The community doesn’t get to hear or see a transcript of the actual discussion.



3. GNSO Council Update – John Berard

John Berard:

- John noted that over the last couple of years there have been many other inputs from the Council to the Board, most at the Board's request, that fall outside the PDP.
- This came to a head in the minds of many of the GNSO councilors with regard to the NTUC reconsideration request on the 50 plus elements of the trademark clearinghouse
- And what is on the Board right now is a motion that states 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.
- John believes the BC should 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 expanding the required consultation is probably a very good idea.

ACTION ITEM: Elisa Cooper added this topic as a topic of discussion in Durban led by John Berard and Marilyn Cade.

For member comments and discussion on this topic please refer to pages 20-24 of the transcript.

4. Policy Update & Open Comments – Steve DelBianco

Steve DelBianco:

- Steve noted that responding to GAC advice will be the number one topic in the Durban meeting. On this topic Steve submitted a Word document to BC members which is a table summarizing the GAC's advice and then responding to Marilyn Cade's request he added a column of the BC's position on each advice element and then a column on ICANN's response.
- The New gTLD Program Committee, or NGPC, has done separate meetings on different pieces of the GAC advice, with separate resolutions.
- They're meeting tomorrow, 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.
- Steve noted that one of the most important conclusions that the 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.
- We don't know how they will complete the test, but they committed to do that and to compile and provide 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.



- When the BC commented on this accuracy check, the BC thought that this would be something implemented through registrars in the RAA since the registrars have the relationship with registrants.
- 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.
- Steve will note in the third column that the NGPC said that the Registry Agreement will require 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.

Elisa Cooper:

- Elisa noted that she read that they are going to allow for a PDP or for experts to devise exactly how this will be done.
- Knowing how long that can take, how is this going to be done? Are applicants who sign for these agreements not going to be performing until they actually define specifically how this will be accomplished?
- Elisa also raised the question of how the compliance will be carried out, evaluating and ensuring that these requirements are met.

Bill Smith:

- Noted that for implementation people should be looking for things that may be easier rather than more difficult.
- There's a lot of work being done in this space and there's no reason for ICANN to duplicate it. Bill therefore believes the it is appropriate to ask registries to do something about site domains, etcetera, that are in fact hosting malware.

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Steve DelBianco:

- 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.
- 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.
- Steve suggested 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.
- Steve noted that this 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?
- Steve took a queue on this topic.

ACTION ITEM: Members should email Steve DelBianco with comments regarding this point.

Steve DelBianco:

- Steve noted that all the Category 1 advice items in Category 1 are what are known as consumer protection strings or sensitive strings and those in regulated markets.
- The GAC gave a non-exhaustive list of many TLDs at the Beijing advice.
- The new gTLD program committee is meeting tomorrow and it intended to address items 1-5 on Page 2.
- At the bottom of Page 2 Steve pointed members to Items 6, 7 and 8: safeguards that are special industries like finance, gambling, professional services, environment, health, medical, fitness and charity.
- Steve noted that those particular Category 1 safeguards haven't been addressed by the New gTLD Program Committee, and they are not on the new gTLD agenda for tomorrow.
- Therefore one of the key elements of GAC advice is still not going to be addressed prior to Durban.
- Steve moved to Category 2 TLDs: those gTLDs that are going to restrict who can register domain names. They're going to have restrictions on who can get in.
- The 25th of June resolution takes a little bit of a different tack on this, trying to establish a general principle that will be in the PIC Spec that transparent, open and non-discrimination are the general principles for letting registrants get a domain name.
- Steve noted that 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. They just need to be transparent and nondiscriminatory in regards to this, which echoed what the GAC asked for and 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.
- 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: Steve noted that the BC had some hope in regards to this issue because on June the 4th the New gTLD Program Committee told the GAC that accepted their advice to reconsider singular vs plural. Last week however 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.

5. Finance Update – Chris Chaplow

Chris Chaplow:

- Chris noted that the BC submitted their comments to the forum and their reply comments.
- The BC hasn't had the ICANN summary and replies to their questions.
- The BC comments were mainly questions.
- Chris noted that on this date (July 1st) ICANN is in its new fiscal year so CANN can't function without an approved budget for the Board to approve in Durban.
- So Chris noted that this is what he believes is happening now: the authority has been given and the budget will be approved in Durban.

Elisa Cooper:

- Elisa thanked BC members for joining the call and adjourned the meeting.