

ICANN

**Moderator: Chantelle Doerksen
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Coordinator: The recordings have started.

Chantelle Doerksen: Good morning, good afternoon and good evening. Welcome to the BC Members call on Thursday, January 19, 2017. On today's call we have Jimson Olufuye, Nivaldo Cleto, Jay Sudowski, Chris Wilson, Philip Corwin, Barbara Wanner, Tim Chen, Tim Smith, Lawrence Olawale-Roberts, Paul Mitchell, Claudia Selli, Beth Allegretti, Geoffrey Noakes, Steve DelBianco, Jay Chapman, Andrew Harris, Isabelle Rutherford, Hibah Kamal-Grayson, and Andrew O'Connell. We have apologies from John Berard and Marie Pattullo.

From staff we have myself, Chantelle Doerksen. I'd like to remind all participants to please state your name before speaking for transcription purposes. Thank you ever so much and over to you, Chris.

Chris Wilson: Thanks, Chantelle. And thanks, everybody. And for Chantelle, welcome back from your honeymoon, hope it was wonderful. Glad to have you back in your secretarial role so thank you so much.

I know we've got a fairly full policy calendar and some other important updates so, Steve, let's go ahead and turn to you and hear from you. Thanks.

Steve DelBianco: Thank you, Chris. It's Steve DelBianco, your Vice Chair for Policy Coordination. I sent a policy calendar two days ago. I hope path all BC members have received it, it's being displayed on the screen. If you don't have it, please email Chantelle, and she'll be able to send it over to you right away.

Since our last call we filed one additional comment. That was on January the 12th where we commented on the anti-harassment policy that ICANN is proposing along with a complaint procedure. Phil Corwin offered me some drafting thoughts, which we turned into a draft and then Denise Michel and Marilyn Cade offered some edits to that. And I think we actually polished it and made it pretty clean. So that comment went in last week. Thanks again for help on that.

Turning to the current public comment agenda, and Chantelle, can you give each of us control so that we can zoom? Thank you very much. Turning to the current calendar, we have five open public comment periods. And I'd like to focus on the first four on today's call if we could please?

The first one is this ICANN's new concept of characterizing what happens in the DNS as diseases. And they came up with five clever names of diseases to describe different aspects of abuse that occurs in the DNS. And we all thought it was quite clever, but it's a bit of a distraction from actually trying to come up with solutions for the problems.

So John Berard, who's not on the call today, did the drafting for us, and then Andy Abram offered edits that I circulated two weeks ago, and then finally

just two days ago I circulated edits from Alex Deacon and Denise Michel. And Denise was kind enough to provide a redline as well as a clean version. And those are attached here. So this would be a great time to understand where members feel we're going in the right place on this particular comment.

It's due the 23rd of January so this would really be our last opportunity to talk about it as a group. Denise Michel is on the phone bridge and Alex Deacon is also on the call. So let's hear a queue on what people think about the comment we've come up with on ICANN's disease methodology. Do we think there is any merit at coming up with clever names? Do we give ICANN any credit for trying to improve its communications or get straight to the issue of whether they - whether they're really doing all they need to do to solve the problem?

Okay so this is essentially last call since I will be submitting this on the 23rd of January which will be Monday. Thanks again, Denise and Alex, for your help on this.

Let's turn to the second one. The second public comment that is open and due the 25th of January, so next Wednesday, are BC comments on supplemental procedures for how we're going to conduct the independent review process, or IRP. Now these procedures were necessary to implement enhancements to the IRP that we the community recommended last year as part of the Cross Community Working Group on Accountability.

If you recall, we use the IANA transition as leverage to get ICANN to agree to some enhancements to the independent review process. The two that I want to feature are the fact that the community, if we have consensus, can bring an IRP and ICANN pays the legal bills.

And most important, the IRP is now binding on ICANN. Now when the procedures came back from ICANN Legal they included a recommendation that the IRP has to be filed within a year of whatever the action or inaction was, and within 45 days of when anyone who had harm became aware of the harm. So there's two shot clocks. And whichever is the shorter could bar someone from bringing a complaint in an IRP.

So I want to thank Jay Sudowski and Phil Corwin for drafting a comment on this. And I circulated that back on the 12th of January. It's the first attachment to today's policy calendar. Now keep in mind that right after Jay and Phil drafted that, we finally got a reply from legal counsel to the CCWG indicating some nuances with regard to how we ought to adjust that timing window.

I circulated that as well. So Phil Corwin, I'd be interested to see whether you or anyone else on the call have anything to add about how we should modify our comments to reflect what the lawyers have said as well as what other CSG colleagues are saying. Phil, can I turn to you for a moment on that?

Phil Corwin: Yes, thank you, Steve. I'll confess on this one, I've been so busy this week I haven't focused on it but I will get focused and get some feedback to you shortly. I know it has to be filed next week.

Steve DelBianco: The update, thank you, Phil. The update from the lawyers for the Cross Community Working Group - and keep in mind, this was not ICANN's lawyers. ICANN's paying the legal bill, but the lawyers are serving their client as the Cross Community Working Group on ICANN Accountability. And their recommendation is you get 12 months from the date of an action or inaction. And you can bring it at any time within 45 days after you become aware or should have become aware of a covered (unintelligible).

Phil, I think that could be you. You might need to put it on mute when you're not speaking.

Phil Corwin: Steve, it's not me. I put it on mute and it continued.

Steve DelBianco: Thank you, Phil. Appreciate that. Sorry to have guessed wrong on that one. It's quiet now, but thank you. So the change that's being recommended, and I'll try to get a show of hands here, the change that's being recommended is the 12-month shot clock on bringing an IRP does not limit you if you suddenly become aware of a covered action giving rise to the dispute and take an action within 45 days.

So you're a party that opening up a Website, you become aware of a particular problem where ICANN is not implementing its procedure. That is an inaction. You want to bring an IRP. Even though the procedure was two years old, you're just now discovering harm that occurs to you. And if you have 45 days to bring an action you shouldn't be limited to the fact that the policy is a year old. That is the - my understanding of the recommended change from the CCWG attorneys.

And I'd like to know whether BC members would agree that we should embrace that recommendation and cite it in our comment. We'll take a queue and there's already one building. Beth Allegretti.

Beth Allegretti: Hi, just do you know what they base that timing on? What ICANN - like general timing rules or is that kind of arbitrary?

Steve DelBianco: I think it's arbitrary, Beth, because the Cross Community Working Group, when we came up with the bylaws changes that all of us approved, we did not address timing. And it's my understanding that there is no timing limits in

today's IRP. So this was ICANN Legal saying, hey, while we're at it, let's see if we can limit our exposure. And whether it's arbitrary or not, I don't know. They may be able to cite some precedent in other areas of arbitration that they came up with for that.

But what - Beth, what really feels arbitrary is that ICANN Legal threw it into the draft procedures even though the community never asked for anything like that.

Beth Allegretti: Right, thank you.

Steve DelBianco: Beth, any follow up to that?

Beth Allegretti: No, thank you.

Steve DelBianco: Great. Denise.

Denise Michel: Hi, yes. Was there any discussions - has there been any discussion of removing the time limit that was added by ICANN Legal, adding a note that we will assess the new IRP procedures as they are used over the next year? And, you know, at an X point in time we, you know, we assess whether or not a time limit is needed?

I mean, given the surprising way this was injected into the - into this community work, and from what I can tell a lack of sort of documentation that there's been harm due to, you know, very old actions being filed upon. I had not had a chance to follow this very closely. I would appreciate any additional information or insight you could provide into this. Thanks.

Steve DelBianco: Denise, we raised in our draft, which I'm sure you've read, significant concerns about both shot clocks. And without specifically saying what we think it should be we said they're too short. I believe that embracing the CCWG lawyer's recommendation solves our dilemma because it suggests there really is no shot clock if you act within 45 days of learning you have a harm. And that - in that regard, the one year from the date of the initial action doesn't hold, it doesn't bar you from bringing action.

So it's - the proposal I'm putting forth is let's embrace what our lawyers have recommended as opposed to I think what you suggested I could put it into the comment to say that the BC's preference is that there be no time limit, period. We could put that in. But then go on to recommend or embrace the recommendation of the law firm serving the CCWG. What are your thoughts on that?

Denise Michel: Right. Well so I was floating the idea of removing it at this time and then having a commitment to come back in X period of time and reassess the need for a time limit. So - but I'm concerned the language as it stands, frankly I'm concerned on a practical level about how the impacted community interacts with ICANN. I'm concerned about staff issuing, you know, an implementation, you know, implementation process, that 10 clicks down on that God-awful Website that people aren't aware of, you know, until it's down the road a ways.

It's becoming - it continues being more and more challenging to stay on top of everything that is going on at ICANN. So I just have a general concern about the current language, though I appreciate it's better than what was originally offered by ICANN Legal. Thanks.

Steve DelBianco: Denise, I'll add this, that Jay and Phil gave us a line in here near the closing. And it says quote, "It is imperative that ICANN recognize our strenuous objection to the proposed statute of limitations in the updated procedures prior to their adoption."

So we are registering very strong objection. And at this point we're simply debating what it is we want to recommend instead. So I could put a line in there suggesting that - and I'll talk about this with Phil and Jay - is that our preference is there be no time limits. But if we are going to have time limit's let's embrace the CCWG lawyers' recommendation. So that's what I'm proposing right now and love to have a continued discussion on that.

Phil Corwin, you're next in the queue.

Phil Corwin: Yes, thank you, Steve. I'll be brief. The time limit is quite suspect. It's clearly an attempt by ICANN Legal to try to limit their exposure to IRPs. While the CCWG legal opinion is helpful, it's not binding on ICANN so I think, you know, I'll be suggesting that we - if we allude to it we ask for ICANN's formal commitment to be bound by that view, otherwise it's just one group of lawyers' opinion, it's not binding on ICANN.

And I think that's still - it should simply be, if there's any time limit the party bringing the action should be required to state well we became aware on this date because of this and just document how they became aware. That phrase, "should have become aware," is very dangerous because then you can get ICANN Legal saying well, you know, you became aware because of that but you should have become aware one or two years before that and therefore your filing is not valid. So that phrase, "should have become aware," should come out of the package at a minimum. Thank you.

Steve DelBianco: Phil, the “should become aware” is a bracketed phrase from our CCWG lawyers. And we are free to reject that as we pick and choose from their recommendations what we want. And I’m hoping, turning to Jay next, I’m hoping that you and Jay, as the authors of this comment, can perhaps look at the CCWG lawyer recommendations, consider Denise’s statement and then maybe issue a new draft for member review over the next couple of days.

Phil Corwin: Sure. Yes.

Steve DelBianco: Thank you. Jay Sudowski.

Jay Sudowski: Yes, thanks, Steve. So with the Sidley comment on the timing, my one question to you, and is that it seems to only relax the timeframes for facial challenges to actions or inactions, right? So I’m wondering if, and that’s - if the group accepts that recommendation or if we should, again, be more aggressive and say that, you know, these time limits should just be expanded in general because it kind of adds like a second set of criteria to the 45 days and 12 months. So I’m just wondering what the group is thinking on that point.

And then just to echo Phil, I do also have some concerns about the “should have become aware” wording because I think it does give ICANN some opportunities to just kind of - just get an IRP discharge based on some kind of technicality.

Steve DelBianco: Thank you, Jay. I note your agreement with Phil on the rejection of “should have been aware.” I don’t understand your point on facial because we’re looking at two timelines, two deadlines, one of which would be overridden completely under the recommendation from Sidley. So, Jay, I would look forward to how you - go ahead.

Jay Sudowski: So, I mean, I'm looking at the language here, and it - and really all they did is they added a second clause to the timing language and it says, "Challenges which allege that a covered action is invalid for all applications," and then in parentheses, it says, "facially invalid may be brought at any time within 45 days after claimant becomes aware of the material effect of the covered action."

So I still think that there is - now we have kind of four shot clocks or three. We have one set of timeframes that are - apply to facially invalid - or facial challenges and then another set of timeframes that apply to other kinds of challenges to the covered action.

Steve DelBianco: Yes, I don't read it that way but we will use too much time on this call to get into that. It strikes me that Sidley's recommendation blows away the one year because you've got 45 days after you're aware whether it's facial or not. It's covered in both cases. You're not subject to the one-year time limit if you become aware of a particular harm and act within 45 days.

But I see the word "facially invalid" in there. But I can't tell for sure if that really creates a whole separate set of shot clocks. And if it is, then I appreciate that you brought that up and I'm hoping that you and Phil can sort of sort that out in a revised comment. That's a good catch, Jay. Thank you.

Marilyn. Can't hear you, Marilyn.

Marilyn Cade: Let me try that again. Does it work?

Steve DelBianco: Now we hear you.

Marilyn Cade: Okay. I just had a question about sometimes what we found in the past has been a reluctance to accept our recommendations on the part of the Board unless we put forward a - the idea that we're going to study it. I don't want to - I support everything that's been said so far, I just have a question about, you know, should we consider adding in our section that says we believe there should be no time limit but we understand there's little data to date. And so we would propose that the - any change in the no time limit could be reconsidered in, I'm going to pick a number of years, three years, five years.

I'm a little worried that there's - that we may be - we may need to build more support for our perspective that there needs to be no time limit and we just don't have enough data yet about how entities, businesses included, are all of a sudden finding out they are being harmed.

Steve DelBianco: Good idea, Marilyn.

Steve DelBianco: Phil and Jay, why not add another suggestion that ICANN defer any imposition of time limits at this point and suggest that the time limit be studied later? All of these could be alternatives. I mean, what Denise said, reject time limits, what Marilyn just suggested and what Sidley suggested are all alternatives to what ICANN Legal is proposing. And let's put them all in there giving opportunities for others to agree with us, for the Board to have a way out, as Marilyn says. But make it clear, as we did in the comment that Jay and Phil drafted, that we reject the limitations that ICANN Legal has come up with.

Keep in mind, we are up against ICANN Legal and they rarely lose. So we're going to need to be organized. I'll turn to Chris Wilson next and I'm hoping that we'll have some allies in other parts of the Commercial Stakeholder Group. Phil - sorry, Chris.

Chris Wilson: Thanks, Steve. So this conversation has evolved a little bit since I raised my hand. Just a couple quick points. First I want to thank Jay for doing the heavy lifting on this comment because it is - the language is confusing in the proposal and even Sidley's response obviously can be a little confusing. I do agree with - I think Steve's interpretation, I think it basically Sidley did do away with the one-year shot clock, if you will. And I think hopefully I think tried to clarify matters a little bit from what was proposed.

With respect to the 45-day time limit, I know others have proposed in the community, Milton Mueller and others I think have suggested maybe making it 90 days. I think if we're going to - if we're going to throw the avenue of if you take Sidley's suggestion then I suggest we perhaps amend that as well to suggest maybe more than 45 days, perhaps 90 days, if that's going to be - if that's going to be accepted.

I think Milton's point was, you know, that more time - 90 days is more reasonable than 45 to sort of get your act together, if you will, to file a challenge. So I think that's perfectly reasonable. And in the interest of comedy, that makes - if we can, you know, even find agreement with the Non Commercial side of things that would be I think beneficial to all.

As far as other CSG engagement, I think from the IPC's perspective, my understanding is that they're more interested in how this interacts with other procedural requirements, etcetera, and not necessarily spending too much time on the minutiae of the time limit. That may change, I'm not privy to the day to day discussions there.

As for the ISPCP, I think they are, you know, certain folks within the ISPCP have been much more engaged on this issue, I think are amenable to Sidley's

suggested changes but I think also are interested in waiting to see what other commenters, public commenters, had to say about it before sort of really pushing hard. But perhaps others that are members of the ISPCP but also members of the BC may have a better insight in exactly where they're coming from but that's my general understanding there.

So I don't think we're - a long way to say I don't think we're - the BC is going far afield necessarily from where others are on this, I think there's a general - a general consensus, shall we say, that the initial proposal is problematic. And that, you know, further study, further changes probably are justified. So I think that's where we are.

Steve DelBianco: Thank you, Chris. Jay, I want to encourage you - this is Steve again - Jay, I want to encourage you to deep dive into whether the imposition of the word "facially" has actually created separate shot clocks. And if you're able to discover that I'm betting that that would be valuable knowledge to our other colleagues in the Commercial Stakeholder Group and getting them to help weigh in on that, to buttress our concern if in fact it's really created two separate groups of shot clocks.

Another idea is to ask ICANN to extend the comment period. It's currently closing on January the 25th and it's clear that with Sidley Austin's recommendations just coming in last week, that it probably makes sense to give more time for this. So believe it or not, it's relatively easy to get an extension to a comment period.

So it would come from us for instance, I could write to ICANN Legal today and request an extension of at least two weeks in light of the fact that Sidley's comments have just come in. Any objections to that? Seeing no objections, I

see Marilyn's hand is up. Is that an old hand, Marilyn? Good, I'll do the extension request. Fantastic. Thanks, everyone.

Next public comment...

Marilyn Cade: Sorry, Steve, I was just going to endorse your asking for the - for the extension and I'll take my hand down now.

Steve DelBianco: Thanks, Marilyn. All right the next one is on the .Mobi sponsored registry agreement. Those comments don't close until February 1, but that's not that far off. We're going to need to get moving on that to file a comment. I wanted to remind everyone that we don't have a volunteer for this yet on .Mobi. And the URS, the Uniform Rapid Suspension, is part of their proposed new registry agreement, it is.

They are not proposing rights protection mechanisms for the launch period because .Mobi is not going to have a launch period, it's been a business for many years. But the URS is in there and the Business Constituency is on record as not endorsing the adoption of URS in a new contract since the URS was never created or the subject of a community bottom-up policy development process.

It's possible that we could do a very brief comment just raising that concern alone in order to be consistent of where we've been in the past. And for that I might turn to Phil Corwin in the queue to see whether we have an idea of how to do that. Phil.

Phil Corwin: Yes, Steve, a couple of things to say on this. One, drafting the comment shouldn't be very difficult because we can simply take our comment letter from dotXXX of a few months ago and change XXX to Mobi and change a

couple of the facts and it's the exact same situation. I want to make three other points on this.

One, what's going on with XXX and with Mobi is different in two ways from what happened in 2015 with Cat, Pro and Travel, where the BC first took its position saying hey, we like URS but it should come through the policy process, not through contract negotiations.

The first difference is that in June of 2016 the RPM Review Working Group was chartered by the GNSO Council and specifically charged with recommending whether any or all of the new TLD RPMs should become consensus policy. So these new - these new contracts come after that official process and that specific charge became official.

Number 2 in 2015 all three registries negotiated for contracts that they thought would be more beneficial for their business model but it was very hard to quantify whether they would realize any economic benefits from that. In these, in the dotXXX contract, there was a change in the per registry fee worth \$300,000 per year to ICM Registry. Similarly in .Mobi there's a change in the registry fee which will save them a substantial amount of money.

Now, I don't want to say this is bribery, but from an accounting standpoint, there's really no difference between ICANN agreeing to that lower fee or ICANN writing the registry a check for that amount of money on an annual basis. It's clearly, you know, I find it somewhat more distasteful when the trade is coming for specific economic benefits.

And Number 3, when you connect the dots we're headed toward a very big controversy possibly because the dotNet contract is up for renewal this year. VeriSign currently pays 75 cents per domain to ICANN with the 50 cent

difference from the standard fee supposedly going to some development fund, though I'm not aware that there's a separate account for that development fund or any record of how that money is used.

And it would be - and I'm not saying there would be anything wrong with this but one would expect that VeriSign would ask for a reduction of its fee from 75 cents to 25 cents. Now dotNet is the Number 2 gTLD in terms of registrations (unintelligible) 15 million domains. So a 50-cent reduction is worth \$7.5 million annually to VeriSign. And Akram has made it very clear that the GDD's quid pro quo for anything like that is acceptance of the new RPMs by legacy TLDs. So I'll stop there.

The group I represent, ICA, is going to be asking the Board to impose a moratorium on this practice until the working group comes up with a recommendation on the RPMs becoming consensus policy.

But in terms of the letter, we can pretty much just take the .XXX and plug-in Mobi and a couple of different effects and our letter is done because nothing has really changed in the last three months. Thank you.

Steve DelBianco: Thank you, Phil. On the comment we found in November on .XXX, we had a lot of help from Beth Allegretti, yourself, Phil and Jay Sudowski, so I'll volunteer to modify the triple X to fit .Mobi and send it to Phil, Beth and Jay to review. Is there anyone else on the call that wants to be part of the drafting team on this .Mobi?

Thank you, Beth, by the way. All right, we're running short on time and we have a very important topic to cover on the BC charter which is the next comment period.

That particular comment period closes February 15th, and this is a comment period about our proposed charter, the one that we approved, overwhelmingly, and ordinarily we wouldn't necessarily comment on our own particular charter.

But there have been two critical comments already filed about our charter. One came from John Berard and he had told us ahead of time he was going to do that. And he suggested that the criteria we have for percentage of revenue that comes from contract parties is an appropriate.

So we could potentially recycle the comments that we've raised on that in the past and have those ready because when it comes to the process, it's the board of ICANN is receiving these public comments and the board will probably turn to us in the BC to react to those comments when they come - when they'll come in.

But I wanted to indicate that we have the time to react to some of these comments during the open public comment period to specifically, and in a singular way, for instance, respond to the comments on lack of diversity which came from (Machu Vale) of AFNIC, the French (CPDL) operator.

I've indicated that comment is critical that the BC's officers and counselors don't speak French and that he looks at that as an indication that we're not working hard enough at outreach and diversity within the officer corps.

And it's my personal view that we ought to reply specifically to that during the open queue on this public comment. We can then reply again but all the comments are summarized by ICANN staff at the end of the 45 day comment period.

But this is a great opportunity for us to specifically answer because I don't know any group who works harder than the BC and trying to generate additional members and then from those of you that are members, I know we worked incredibly hard to recruit anyone on the BC list to run for office.

We're going to make it even more essential next year as we adopt the charter that will, well, we're going to adopt a charter that makes it so that you have a time limit, a hard term limit, provided that other candidates are available, all right?

So we'd like to take a queue on that and discuss - I guess first of all, does anybody who thinks - and specifically we should or should not comment during the open comment period.

That's a process matter. And then let's allocate five or ten minutes of substance on how we respond. Currently in the queue I have Marilyn Cade and Andrew Mack. Go ahead, Marilyn.

Marilyn Cade: Thanks. I'll just give my opinion but I do want to mention that the outreach committee - Andrew is on the call, so it's Jimson at - our liaison, so is Lawrence.

We're discussing various comments (unintelligible) personal views because I know AFNIC very well and I think many of the BC members do not know AFNIC or know of their history (and heritage).

And actually, they're not only the ccTLD. They also serve as the (NIC), as the - they allocate the IP addresses in France. They also have a development approach for some of the Francophone countries where they do support some

of the Francophone countries but always with a priority that everything has to be done in French.

And there - I personally do not think we should be responding separately to them. I - and I've said this on the outreach committee working effort, but then Andy will speak, I think, and perhaps Jimson.

I think we should be conning our records, describing a record and not blaming that against a single country representative from a ccTLD and a (NIC) that is challenging us. We have actually many, many, many French-speaking members.

And I don't - I didn't know if Elizabeth is on the call are not, but many of the participants from the associations that are based in Europe that are members of the BC have multiple French-speaking members.

I think we shouldn't try - let me finish. I don't want to - I see Nivaldo's on the - I don't want French versus Spanish versus Portuguese to be our challenge. I think diversity of membership is what we want to respond to.

Steve DelBianco: Marilyn, we're going to turn to Andy next and I guess that's my whole point. I believe we should specifically respond, indicating the diversity of membership including those who speak French and that it's a different matter motivating people to run for officer when their job may not accommodate the time to put in. Andrew.

Andrew Mack: Thanks, Steve. First of all, Marilyn, I agree with pretty much everything that you said. I think that we shouldn't concede the point that languages the marker of diversity. We have a great record to stand on and we have done a lot to try to provoke - promote all kinds of diversity on the - within the PC.

You know, no one can force you to run for officer position and I think we've worked very hard to try to encourage people to become officers from all around the world and continue to do that.

So I think we can stand on that. My personal preference is to respond to as many of these comments as we can but to do it in exactly the way that you kind of suggested.

Maybe to, I guess, it is what I would propose is a two-part strategy. One would be to have maybe a broader comment about what we're doing on diversification generally, but you know, a small thing saying, you know, we're - we have many French-speaking members of the BC.

I think we counted, like, 12 of them yesterday, at least, and to have a short note to respond to each - to a comment like Matthew's. But I don't think we need to conceive that language is a marker of diversity. I guess that's my big point. Thanks.

Steve DelBianco: Andy, thank you for that. I think you bring up a great point. I hadn't actually thought of it that way, but by Matthew criticizing us for a lack of a French-speaking elected officer, I don't, for a minute, want to concede that that's how we recruit when we do outreach.

We do outreach based on geographical regions and the size and type of companies that are underrepresented in the BC. So I don't ever remember outreach specifically making it about language. I think that's a great point.

And I fully support if the outreach committee can come up with a consensus around a certain kind of response. I would love to put it in front of our BC membership so that the membership can review it before it gets submitted.

And the timing on this, for those of you on the outreach committee, is a little bit tight, right, because these comments closed the 15th of February, and we want to give the BC members an opportunity to endorse and review whatever the outreach committee comes up with in terms of a response.

Now, let's suppose the timing didn't work for us and we couldn't get it done in time. We still have to do the work he comes after the board and staff summarize the comments, they'll turn to the BC and they'll ask us to reply.

So we'll still need to have the outreach committee and anyone else who's involved in the chartered drafting, with responses to the criticisms that come in and the suggestion that comment including John Berard's suggestion.

So there's a lot of work ahead of us on this. It's not policy, per se. It's process. Andy, did you have a follow-up?

Andrew Mack: Yes, just wanted to say - I wanted to compliment Jimson and other members of the outreach committee. There's a lot of work, Steve, that's already been done on this, as you know, and a tremendous amount of effort has been put into summarizing what we've already done.

I think our record is there already so we're, in that instance, a little bit ahead of the game and we've got a really good record to stand on.

Steve DelBianco: Okay, and that will be helpful. But in addition, please consider a specific response. And Marilyn notes in the chat that herself, Lawrence, Jimson and Andrew Mack are working on that and I appreciate it.

Please do your best to get something you can circulate from the committee to the BC, let's say, by early next week. That would be wonderful. Thank you very much for your contribution on that.

The only other public comment period open is a whole batch of dot brand TLDs that want to release GO names. I'll discuss with Andy Abrams whether he can help with the draft. He had another comment on that.

And that's it for that policy calendar. I'll turn now to channel two which is the GNSO council. We discussed the fact that the 19th of January at 21 UTC - that's today - there's going to be a council teleconference and I've put highlights in the agenda right here in the policy calendar and I'll turn to fill corpsmen to walk us through it.

Phil Corwin: Yes, thanks, Steve, and I'll be brief and I don't know if Susan's been able to join us. I know she's traveling today, said that was going to be an issue for her, as well as for the council call.

In the interest of time, real quick, of course we'll be voting for the motion for the nominees to the SSRT review team, including Denise Michel and Scott McCormick and we appreciate your willingness to serve.

On number 3, I'll let - save anyone has anything to raise on that that I should carry into the council call later today. I want to address number 2. There's been a proposal for a facilitated discussion between council and the GAC between GAC advice and GNSO recommendations.

Now, on one hand, you don't want to say as council, we refuse to talk to the GAC. On the other hand, the board's put us in an uncomfortable position where the outstanding recommendations on permanent protections at the second level have been sitting out there for several years with GNSO policy recommendations and contrary GAC advice.

And this is basically - these facilitated discussions are a substitute for the board making a decision. And this could be a precedent for every time there is a disagreement between the council in the GAC. Rather than making a decision, the board says, well, you guys go off and - you folks - I don't want to say just guys - you participants go off and negotiate it.

So I have responded in a personal capacity to the chair's request for comments on this in two ways. Number 1, I'm not going to personally oppose these discussions and there's a subject that involves me personally, which I'll get to in a minute.

But it has to be recognized that any - in any bilateral discussions that council has the lead role in setting policies. We should not acquiesce to a procedure which essentially gives the GAC equal status in setting policy with council.

That would be an erosion of the role of the GAC. And number 2, that these discussions should only address the permanent protections issue. The GAC has dragged in the curative rights process issue at the urging of the IGOs.

Now, I've been co-chair of the working group addressing that. We finished our work after two years. I believe that tomorrow our final report and recommendations, which is more than 100 pages in length, and heavily footnoted, will be coming out.

We do propose giving idea substantial relief I'm getting relief against infringement of their names are acronyms, but not in the way they requested, so the GAC will likely give conflicting advice on that as well.

But that policy process is still open. The report will be put out for 40 day comments, and of course, after that, we're going to have to take the comments into account, put out a final report and then that will go to council and then to the board if council approves it later this year.

So the idea of having a council-GAC discussion of a matter that still in a policy process, from my point of view, is completely unacceptable. So I'll stop there and see if there are any comments on that issue as well as if people have any guidance in regard to the thick WHOIS implementation team issue that's going to be coming up today. Thank you.

Steve DelBianco: Hey, thanks, Phil. Great update. We have Andrew Mack and Marilyn Cade, you hand up. Andrew Mack, your hand is up. Is that an old hand? Go to Marilyn Cade.

Marilyn Cade: Okay, my hand is a new hand. Phil, for that - you know, I'll just restate this for the record. I have a different view than some of the BC members do about the IGO names and I've never been quite about that.

I've always been on the record about it. And, in fact, I was instrumental in pushing forward the fact that the IGOs needed to come to ICANN to speak rather than pursuing external UN opportunities which they had many of.

In fact, I went to Paris and sat down with the OECD staff, the legal staff and the Secretary General, to ask them to take the lead because some of the IGOs

had been so offended in the early days they weren't familiar with ICANN and they were pursuing aggressively alternative views and processes including treaty processes.

I think we've made a lot of progress, frankly, and bringing the discussion into the umbrella it belongs in, and that is within ICANN. I'm not - my view on this is, the more you talk, the more you find commonality and then you isolate the differences.

I understand the point you're making which sounds a little bit righteous to me, frankly, that the GNSO is this, blah, blah, blah, blah. But I would like to propose that we be a little cautious right now and take more about listening because we're not done yet and some of the external fora like the ITU, upcoming WTDC, the World Telecommunications Development Conference in a couple of other places where unhappy governments could be trying to diminish ICANN's role.

I can as an umbrella of safety, to me, and many of these areas. So, you know, I understand the concerns about having a precedent or other things, but I would just ask if it's possible to think about the more you talk, the more you find commonality and the more you isolate the differences. I know many of the GNSO counselors may not support that, particularly from the contracted parties, but I'd ask that we think about it.

Steve DelBianco: Thank you, Marilyn. With that, Chris, I would like to turn over the balance of the agenda to you. Sorry that policies discussion went so long.

Chris Wilson: Thanks, Steve. Actually no, I think it was a good discussion some glad we had it. And Barbara turn to you for a CSG update. I know we just had about an hour ago, had our NCPH intersessional call so there probably is an update

there and also it's going to happen for our initial planning for ICANN 58, so
Barbara.

Barbara Wanner: Okay. All-righty. Can you - everybody hear me?

Chris Wilson: Yes.

Barbara Wanner: Okay, great. On our intersessional call, I'll just go briefly through but I'll refer to as logistical wrinkles. Regrettably, it looks like we won't have any of the ICANN leadership that will be able to meet us in person.

Goran has a conflict that will be in LA and will be participating remotely. Jaime Hedlund, who we had hoped to talk about compliance issues in his new capacity, also is tied up in Washington. And David Olive has a very - such a narrow window.

He was very graciously willing to stop through Iceland on his way to Turkey but his window is so narrow that there was some discussion - Chris, I got the sense that people felt that it would be of more value for David to participate remotely so we could hear the full substance of our discussions rather than just sort of parachuting in and out within 12 hours or whatever.

So, I guess, those would be the disappointments and perhaps they will factor into one of the plenary session discussions concerning in-house issues, procedural, NCPH, selection issues, selecting the board of - the liaison to the Board of Directors.

This question of if even we had (unintelligible) meeting or the purpose and focus of that meeting. There is a lot of discussion in the chat room about

scheduling - holding these meetings and hubs to enable interaction with ICANN staff.

But moving on to the substance of the meeting, it looks like the BC will have at least three opportunities for breakout sessions to discuss priorities and strategies and so forth.

And I defer to Chris and other members of the group in terms of how we want to focus those discussions or determine what, you know, determine how best to use that time.

The BC was tapped to serve as sort of session leaders for two topics, one concerning areas of common policy - common interest among NCPH membership pertaining to RPMs and IPs.

And Chris was tapped to serve as a lead on that as well as a luncheon plenary on budgeting issues. During today's call, it was discussed of those topics aren't exactly are cup of tea, we want to focus on - user position as session chair to lead another discussion, we're welcome to swap those out.

So, again, I defer to other members of the BC ex-com in terms of whether those are good topics for us to focus on in terms of leading a session. Other topics, for example, consider new gTLDs or maintaining the GNSO traditional policy making leadership or this issue of - they're calling it quote, unquote, "presenting the NCPH."

And I think this goes to a lot of email traffic, again, concerning how the house a structured and a sense, again, as a newcomer, as an observer by impression that the non-commercial users are not that wild about sometimes just being lumped in with us for the only other reason being that we are both non-

contracted parties that oftentimes on policy issues, they may have more in common and more in alignment with the contracted party house.

So I don't know if that session will - I don't know if fireworks is an appropriate term but perhaps a very lively discussion on that issue. Okay, that is very brief, we have for the intersessional.

In terms of planning for ICANN 58, Chantelle very kindly circulated the most recent meeting requests. For planning purposes, it looks like we will hit the ground running on the 11th, CSG meetings with both the registry stakeholder group and tentatively with the registrars.

We will have a public meeting on the 14th and our closed CSG meeting on Sunday, the 12th opening that they quite early at 8:00 in the morning, our CSG session with the ICANN board.

We don't have a date and time yet for the CSG GAC breakfast, reception, whatever turns out to be. But curiously, yesterday we got a request, it seemed, from the GAC for - suggestions of themes of what the CSG wanted to talk about in our meeting with them.

And both Chris and Greg Shatan noted that historically this meeting had been sort of informal in nature, not sort of a formally structured meeting. But Greg had put forward a couple of suggestions which seemed reasonable to me and I invite feedback from the ex-com as well as BC members to maybe consider life and a post-transition ICANN.

That's sort of sufficiently broad. And also how we could have a CSG and GAC could discuss potential cooperation on abuse prevention and mitigation. So that's kind of where we stand on meeting planning.

We will have two back-to-back meetings but the contracted party house, the CSG executive committee and the NCPH and contracted party house executive committees on the 15th.

Greg felt that was very important to have those two meetings back-to-back. Those will both be closed. So that's about it in a nutshell. Happy to take any questions.

Marilyn Cade: Sorry, Chris, it's Marilyn. Can I make a comment, please, real quick?

Chris Wilson: Sure.

Marilyn Cade: And I will be very quick. Actually, I founded that breakfast in a number of years ago - a number of years ago before most of you were members of the BC. And actually we always had, for the GAC breakfast, they were typically designed - Barbara, it's long time ago but just a quick - they were typically - we gave to topics between the CSG constituencies, came up with two topics.

We asked the GAC for a topic and we put those topics on the table so that - I think has been a lot of change to more informal approaches and particularly because the GAC scheduled change in it's been difficult for them to actually show up in numbers.

But we did always use to have an agreed two topic. I'm not saying that would still work but I just wanted to note it because I think it's - if the idea is now to have a reception, I also posted on the BC list that the last time we did a reception with the GAC, it was when we were in Brussels and the BC was the lead and we do a lot of preliminary work.

So whatever we decide to do this time, I think we should remember that we're going to have more GAC members in Copenhagen than we will have at the mid-year meeting and whatever we can do to take advantage of it, I congratulate all of us on doing that.

Chris Wilson: Thanks, Marilyn. Yes, and thank you, Barbara for that. I think just, well, tying that up, I think we expect that there'll be - as Greg - Barbara mentioned Greg Shatan that suggest a couple of themes and we can circulate that to the BC. I do think they were - they're pretty general themes.

Marilyn Cade: Right.

Chris Wilson: And so I think we can be consistent with past practice there. I think the fear was that business was going to turn into a very formal engagement which, you know, didn't seem necessary.

So - but we appreciate the historical point of view, Marilyn. And thank you, Barbara, for your update. I know in the interest of time, we're almost at the bottom of the hour, maybe quickly, Jimson, I'll turn to you for your quick update. Jimson? Jimson, we can't hear you if you're speaking. Chantelle, perhaps he's - Jimson's been disconnected.

Marilyn Cade: Chris, while we're waiting for Jimson to rejoin, maybe Chantelle could describe the Meet the BC.

Jimson Olufuye: Greetings everyone.

Chris Wilson: Yes, hi, Jimson. We can hear you.

Jimson Olufuye: Hi everyone. It just happened that once the 60 minutes (when I'm connected) the line goes off. So, very quickly, two things, on the request. You already have it on the list so if there is no objection or (further edits) (these budgets will be submitted) to ICANN by the (28th) of January.

So (six requests in all, and you can see on the list that I circulated). And then, lastly, and importantly, the (Meet the BC) project, we received very few inputs for this project. The project is about creating awareness about the members for the BC.

This will actually also address the comment raised on the - on our charter about diversity, so I would like to encourage our members to send in their bio, that is, the lead contact of members to send in their bio, maybe about 300 words, and photo - bio and photo.

So this will enable the larger ICANN community to appreciate the diverse members of the BC. So that is what I have now. Thank you very much.

Chris Wilson: Thank you, Jimson. Let me just add, perhaps if you don't mind sending out an email to the full BC list about reminding them about the Meet the BC project and may be giving a little explanation about its goals, et cetera.

And for those BC members who do speak French, I highly recommend you participate in this. I kid, but seriously - and Jimson, if you could send that out to folks, and email, just sort of a reminder, especially for those that aren't on the call, that would be helpful. But thank you.

Jimson Olufuye: Okay.

Chris Wilson: And with that, it's past the top of the next hour, so let me all say thank you very much. Our next meeting will be two weeks from now, February 2nd, a new month, and will hopefully have a very firm grasp on the intersessional by then as well. So thank you all very much and look forward to talking to you in a couple of weeks. Chantelle, we can stop the recording.

Chantelle Doerksen: Mae, you may now stop the recording. Please remember to disconnect all remaining lines and enjoy the rest of your day.

END