| CHANTELLE DOERKSEN: | Good morning, good afternoon, and good evening.  Welcome to the BC Members Call on Wednesday, August 14, 2018. In the interest of time, attendance will be taken via the Zoom room. Please state your name before speaking for the transcript and keep your phones and microphones on mute when not speaking to avoid background noise. With this, I'd like to turn it over to our chair, Claudia, to begin. Claudia, please go ahead. |
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| CLAUDIA SELLI: | Thank you, Chantelle, and thank you very much, everybody, for participating on today's call. Have you seen, have you looked at the agenda? It's [inaudible] second part of the call. We will start with the council, the CSG, and then finance and operations, [inaudible] with the policy calendar. So please stay on the call. Just wanted to inform you that, later today, I will sending out also the expressions of interest for the financial year 2020 for the CROP program. So please watch the mail on the BC thread so that you can note the different deadlines and apply for that funding. |
| | In the interest of time, also I will leave the floor to Marie and Scott for the Council update. Marie and Scott? |
| MARIE PATTULLO: | Hi, all. This is Marie. Can you hear me okay? |

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| CLAUDIA SELLI: | Yes. Loud and clear. |
| MARIE PATTULLO: | Great. Thanks, Claudia. So, hello to everybody from a very [inaudible]. I'm glad to say that [inaudible]. There isn't that much to tell you about council. You have already seen the report of our last meeting. Our next one is next week, and as yet, we have neither agenda nor motion. So the [inaudible] I'm afraid. [inaudible], however, what Steve has put into the policy calendar on the [IRT IOT]. As you know, [Joe] has come forward [inaudible]. As far as I know, all of those names have been submitted to the board. I haven't seen anything else as yet. |
| | The second part, the more important part, will feed into our discussion later with our experts about EPDP. There's a slight anomaly, an error in the policy calendar. If you can just scroll down, so you can see the highlighted part, [inaudible] report. There you go, stop. [inaudible] report that [inaudible]. That's not quite right. What I have said is that we, the BC, sent a letter, as you know – an email, I'm sorry, as you know – to the council asking where we are on this, how the discussions have gone forward, and I haven't had a response to that email. |
| | The [letter], [inaudible], has not yet been sent. As a reminder, the letter is about the phase one of the EPDP and the two parts of the two recommendations that the board chose not to adopt and went back to council asking for clarity. |
| | Now, neither the BC nor the IPC were happy with the draft letter [inaudible]. The two parts of that letter go to [purpose two] which is the |

[inaudible] access to data. And the other part goes to contracted parties decision to [inaudible] to the organization [inaudible].

I'm happy to send my email to you again if you're feeling not up to date. But to [inaudible] is to say that both the BC and the IPC have both [inaudible] with council different reasons that draft letter [inaudible] draft letter is.

The second [part] that we discussed – and it's now at the top of your screen – that we discussed in council last meeting, [inaudible]. Now, again, I don't know where we are on that. Again, we sent a [inaudible] mail just yesterday asking council where we are on that.

You'll remember that data accuracy is something that has been an issue since before I was born, which was a very, very long time ago. The WHOIS database is inaccurate. This is the [inaudible] no one. There are supposed to be new [inaudible] within phase two of EPDP to look at that. You can see on your screen the details of that. We do try to make it accurate. Again, when I know anything more about that, I will let you know. Again, when we come back to the EPDP discussion, our experts will be able to tell you more about that if you want to know.

Now, if you scroll down a wee bit more please, Chantelle, the bit that Marie called our attention, you'll remember that back on the 17th of June we got a blog post, an email, from ICANN Org, from Cyrus, who [inaudible] the Global Domains Division. He was talking about ICANN Org preparation for the next round of gTLDs.

You'll also remember that there was a lot of confusion about that. One, because there's no actual official call for public comment out there that

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you'll see, but they do want a response from us by the 30<sup>th</sup> of August, so a week and a bit from now. Also because we had understood that all of this work to do with the next round would depend on the outcome of the current reviews, including SubPro. But there are new [inaudible] within Org to get their [inaudible] ready for [inaudible] second round anyway.

Now, if anybody believes that we should, as the BC, be making a response to this, please let me know. I'm happy to work with you on that because we do need to get it in by the 30<sup>th</sup> of August.

The other bit is on Council SSR-2 still going on. Scott or Denise are the people who will talk to you about that. ATRT-3 is still going on and I understand that Tola, unfortunately, had a clash today, so he couldn't join the meeting but he kindly presented his report which you can see in the screen as to where they are.

I will hand back to you, Claudia, unless there are any questions. Thank you.

CLAUDIA SELLI:          Thank you, Marie. I cannot see if there are questions for Marie. Chantelle, is there anyone with their hands up? Sounds like a no. I will leave the floor to you, Barbara, for the CSG update.

BARBARA WANNER:          Okay. Can everyone hear me okay?

CLAUDIA SELLI:          Yes.

BARBARA WANNER:          Okay, great. Sorry, I've been having problems with my headset recently. I really don't have a whole lot to update you about concerning ICANN 66. We are trying to set – in addition to meeting with the CSG meeting with the board, meeting with Becky and Matthew and so forth, having the opened and closed meetings, we are trying to arrange meetings with the contracted party house as well as the GAC. The GAC, in particular, is proving a bit problematic because of the constraints on their time, the constraints on our time, and if we want to have something either over breakfast or lunch or as a cocktail reception, that involves catering fees. So I'll keep you posted on that but a couple of people have expressed interest and concern about us meeting with the GAC, and rest assured that we're trying to everything we can within the constraints of the schedule to do that.

Also, I really have nothing new to report in terms of the intersessional and our correspondence with the NCSG. I think that's probably in light of everyone's holiday plans. It was my understanding that Wolf-Ulrich Knoben who is right now chairing the CSG – it's the ISPCP's turn – [inaudible] to convey to the NCSG that we would really prefer to have an intersessional either two to three hours at ICANN 67 or Day Zero at ICANN 67. I've also proposed to Wolf-Ulrich that we even consider ICANN 68. Marie to thank for that. That was her suggestion because that policy meeting tends to be shorter and it might be easier to add on a day to that.

I'm afraid that's where we stand right now. Happy to take any questions. Thanks.

CLAUDIA SELLI: Thank you, Barbara, for the report. If there are no questions, then I would leave the floor to Jimson for the finance and operations update. Jimson, please, the floor is yours. Hello?

CHANTELLE DOERKSEN: I'm sorry. Jimson is on. I'm going to see if he's muted. One moment.

CLAUDIA SELLI: Sure.

CHANTELLE DOERKSEN: Claudia, it looks like Jimson dropped. Oh, there he is. It looks like he's reconnecting now. Please give us a moment.

CLAUDIA SELLI: Okay, perfect.

CHANTELLE DOERKSEN: Hi, Jimson. Can you hear us?

JIMSON OLUFUYE: Okay. So sorry.

CHANTELLE DOERKSEN:         The floor is yours.

JIMSON OLUFUYE:             Alright. Thank you very much. I had a glitch and I think I'm back online. Thank you very much. Greetings, everyone. As to all informed at the last meeting, BC officer election is coming up and we'd like to encourage you to also come up to serve. There are four offices that are available, room for everyone of us to [inaudible]. The office of the chair, the office of the vice chair of policy coordination, and also the office of the vice chair finance and operation, and the CSG. That is commercial stakeholder group representative on behalf of all the BC. So there are four slots for election.

The election will be beginning September 9th as has been communicated to us earlier. I'm making this [inaudible] just for the sake of new members. We recognize that new people joined us today. So, September 9th to October 10th is the period the election process will span. On September 9th, for a two-week period, we have the opportunity to make a position for the office, wherein the [inaudible] period and then [inaudible] will follow. But it's two weeks, again, to that event. Secretariat, Chantelle, will as usual, send a reminder to the list so that we can be fully prepared.

Also, very important concerning the election is the issue of eligibility. It's only members that are fully [paid up] that will be eligible to vote and be voted for. So I would like to encourage [inaudible] and once the

[inaudible] concerning the process to [inaudible] through the [inaudible] processes.

Also, I'd like this opportunity to thank members of [inaudible]. There are some issues we are also resolving. [inaudible] with some of our category one members. They have to follow some [inaudible] breaks, [inaudible] processes. So, [inaudible] engaging. So if you have any challenge concerning your payment process, please let us know.

Also, I'd like to note that some of us, why this process is [inaudible] some reminders. This is based on automatic settings. So once you get it and you know that the process is ongoing, so there is no need to worry about that, just because [inaudible] and for reminder.

But once payment is made, they are just made to be reflected at the backend. So far, we still have just about 67% compliance, so I would like to [inaudible] all of us to still please [inaudible] so that [inaudible] also be part of [inaudible] BC.

I would say that I also need to comment about the committee, information about the committee election to be coming up shortly. We have a number of committees. We have the [inaudible] committee. We also have the finance committee. We have the outreach committee. So details about these committee elections will be sent to us shortly.

But for the three committees, that of the finance committee, as a [inaudible] with the charter. That is the vice chair finance operation. But notwithstanding, in line with the charter as well, once a member is sat for two years, they also stand for election within the committee and

they have one extra year afterwards to stand. You'll get all the detail briefs very soon.

Next will be on membership. I will talk about the membership dues. But it's my pleasure to welcome our new member, Key West Magazine. You are most welcome. Key West Magazine, based in the US, is being represented by Bill Semich. Bill Semich, you are most welcome. You will receive welcome briefing from our secretariat, Chantelle. Please feel free, if there are still any questions you have, feel free to send a message to the executive committee, bcexcom@icann.org. Feel free to ask any question or send it to Chantelle. You should already have Chantelle's communication.

Still on membership, we'd like to also let us know that [inaudible] membership has been replaced by Internet Marketing Services, Inc. USA as well. [inaudible] part of their own branding or evolution. So going forward from our list, membership [inaudible] the website, [inaudible] will be replaced by Internet Marketing Services, Inc.

The process [inaudible] this opportunity to acquaint us about the process. If you want to change your company representation in the BC to another one, a new form has to be completed. Just simply go online to [inaudible], our website, and complete the new form. [inaudible] record of the change, also to enable [inaudible] application. That is, the credentials committee to also have a record of this and do a proper due diligence. So they've gone through that and it is approved. Internet Marketing Services can replace [inaudible].

I want to thank the [inaudible] committee, the chair, Andrew Mack, and all the members for all the work they are doing. The Internet Marketing Services are still being represented by John [Classion]. John is still representing new company.

Next is on the outreach. The outreach committee is already working so that we can have some side event in Montreal. [inaudible] responded to my shout-out for articles for a newsletter and [inaudible] a very beautiful article on universal acceptance. There is still opportunity if you want to also pen an article, please do. You can build on something of interest, of course relevance to work, BC work in ICANN. It would be a good opportunity, experience that I think would be of real value.

Lastly, talking about the BC CROP and leadership development funding, our chair mentioned earlier that we should be sending this communication to us. So [inaudible] to say please watch out for that. At the expense [inaudible] period of ICANN 66, 67, and 68. So let's watch out for that as she will send out a communication.

If there is any question, I'll be happy to take it. Yes, I can [inaudible]. I'm so sorry. Communication is a challenge. But if there is anything I need to repeat, please, can you let me know.

CHANTELLE DOERKSEN: Hi, Jimson. Not at the moment but I do see Marie has her hand raised.

JIMSON OLUFUYE: Okay. Marie, please go ahead.

MARIE PATTULLO:     Thanks, Jimson. You were breaking up. It's not your problem. We do realize that and it's so great [inaudible] us anyway. I'm wondering, while we've got you perhaps not so clear but also to benefit Andrew Mack, if you want to say some words, Andy, about the potential outreach [inaudible]. So not at the Montreal meeting, but [inaudible]. Thanks.

ANDREW MACK:     Sure. Hold on. Can everyone hear me?

JIMSON OLUFUYE:     Yes, I do.

[ANDY ABRAMS]:     Thanks. Sorry about that. I had too many windows open. I had put myself on mute on all of them simultaneously.

Just briefly, we've done a lot more on the outreach side than the last time. We're still trying to get things organized. I agree with the plan to have our big outreach be a Latin America focused outreach in Cancun. I think that makes infinitely more sense. We're going to get a lot of people from the region. People from North America we know moderately well. We talked about doing an in-reach in Montreal and I think that makes good sense, with a focus potentially on trying to reach out to a smaller number of people who will be attending, including people who are French speakers because we don't have much representation there.

I'm going to be working with other members of the outreach team to try to build up our 20<sup>th</sup> anniversary for Cancun and start to be planning ahead for that, also to see if we can't shake the tree and get some interest in and resources from ICANN, LAC, and other places.

Marie, is there anything else in specific that you wanted to know? Because we're still early on in the thinking about that. I know Jim has been discussing the possibility of helping with our in-reach in Canada which we're very grateful for.

MARIE PATTULLO:     Andy, if you have reference to – sorry, do you have access to Zoom? Because Barbara has got a question.

ANDREW MACK:     Just a second. I'm sorry. I've got too many [inaudible]. My apologies.

MARIE PATTULLO:     Could we also discuss the in-reach proposal for Montreal? I can take that over if you prefer.

ANDREW MACK:     Sure. I'm sorry, I've got too many things open. Just one second here. I need to sign back in. I'll be right back. But go ahead, please pick it up. Thank you.

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| MARIE PATTULLO: | Sure. Thank you. I'm sorry for putting you on the spot. You'll remember – thank you for [inaudible], Barbara – that we discussed the idea at our last meeting, in the Marrakech meeting, of having a so-called in-reach event. In other words, rather than us always trying to get more people to come and talk with us, outsiders which of course is hugely important and very valid, sometimes we forget that we don't all know each other and we have some great members and we don't all have time to even speak to each other because everybody at ICANN meetings is running around very, very fast in different directions. |
| | So, the idea is that, in Montreal, we would have some kind of a side event, a social event, an unofficial event for the BC membership itself. Our good friend and great colleague, Tim Smith, based in Canada, is already scoping out some potential venues for us. We've been talking about when we might be able to do this. Based on the rough schedule, the block schedule, that's drafted – at the moment, it's being drafted by ICANN staff. Thank you, Chantelle, and many others. It seems it might be [inaudible] as having the most likelihood of a few people having other events going on. But it's [inaudible] idea. I think Andy Mack is back and I see that Mark has his hand up. Thanks. |
| ANDREW MACK: | Go ahead, please. Who had their hand up? |
| MARK DATYSGELD: | That would be me, Andrew. Thank you very much. |

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ANDREW MACK:          Go ahead, Mark.

MARK DATYSGELD:                         If you would rather speak first, I have—

ANDREW MACK:          No, no, go for it. Go for it.

MARK DATYSGELD:          Hello, everyone. Something that I have been doing very informally but will start doing in a formal manner this meeting is reaching out directly to Siranush so that the business-related fellows find their way to us more easily. I'll start communicating directly with them and I'll be doing that as an independent initiative but it doesn't have to be that way. If anybody would like to join that sort of effort, just let me know, because if you do recall or research on engagement in Latin America, a more broad finding we had there is that very few fellows get selected there for the business [persuasion], and even if they do, they don't [inaudible] the BC. So I'll be starting a more proactive, aggressive strategy now where I'll just go to them and say, "Hey, these are our sessions. Please join us. If you have any questions, this is Steve who is policy. This is Jimson, who is finance. Or whoever is chair or vice chair at the time. Here's a relevant member from your region." We should try to get that going. So I'm still thinking about that report actively and trying to find ways to enact it. This will be [inaudible]. So in case anybody has thoughts on that, please drop me a line because this is something that

[inaudible] should be doing moving forward, not just this time but in general. Thank you very much.

ANDREW MACK:

Mark, that's a great idea. I want to pick up on what you are suggesting and making the connections into some of these other programs. There's no question that we are both not as well-organized together as a group as we could be in terms of getting to know each other more.

We're not probably taking full advantage of the limited number of fellows and other program supported people that are coming our way. I definitely think that's a great idea.

The idea of the in-reach, as I understood it, was really for people within the BC to get a little bit more closely connected. We've done this in the past in years past. It's been a while since we've done it. I don't think it's a bad idea at all. I think it will help us with some of our go-forward, and frankly understanding some of the broader issues that are affecting the BC in terms of our relations with board and a bunch of other different constituencies. I think it could be very much for the good.

For the work that we're going to try to do for Cancun, I think we should make a big deal out of it. I'm one of the mentors for both Montreal and Cancun. I will lean on the programs that I have access to – and Mark, if you'll help – to try to get as much as possible information about who will be there so that we can really try to get people who are either recent fellows or past fellows or current fellows that might be a fit for us to make sure that they show up and just have it be a little bit more informal but a little bit more of a holistic and maybe a little bit less of

just a narrow transactional kind of thing, so that we have a mix of the two. Does that make sense to everybody?

I remember the in-reach in Helsinki and I remember that being a good program. Thanks for remembering it, Chantelle. That's it from my side. I think that, on the outreach side, we're trying as much as we possibly can to make it simple, to make it something that everybody will enjoy, so please give us your thoughts, and wherever possible to use the many and various sources of ICANN revenue. Mark, you know the system really well, and Jimson, you do, too. Anything we can do to [inaudible] those funds. We don't want to let them go unused for sure. Thanks, everybody.

JIMSON OLUFUYE:     Thank you very much, Andrew. Well, very soon we'll be making a shout-out for some people to be a part of perhaps those that will be working towards Cancun, because towards Cancun, a big event, 20th anniversary of the BC. We'll need to have some documentation. We need to capture some of the history, to have something for the record. Just something to look forward to. We'll be counting on the efforts of veterans and those that have been in BC for quite a while so that we can document the history of the BC and vital information that can [inaudible] for the future. So that is just for us to be prepared for what is down the line.

Sorry for my [inaudible] earlier. Important call I made was concerning the article for newsletter and appreciating Mark. [inaudible] as well, please send it across. Then, on the payment of dues, please if you have any challenge as well, let us know. [inaudible] yet to finish the process.

It is machine generated. It's based on script. We've already attached to the background, to the backend. So just for you to know that. Then, the election information will be repeated shortly. Thank you very much. Over to you, Claudia.

MARIE PATTULLO:   I'm wondering if we may have left Claudia. I know that she has been having connection issues. So, just in case, [inaudible]. I would never in my wildest dreams ever be able to be Steve DelBianco. Steve has a conflict [inaudible] very shortly but he has asked me to run through the policy discussion until he can get here. Chantelle, if it's okay, can you please put up the policy calendar?

For those of you who are new, Steve is our vice chair for policy coordination and extremely, extremely knowledgeable and good. So please do not think that I am in any way going to be able to answer the questions that he can.

But you will see on the policy calendar that he circulated to you this morning and that Chantelle is about to share on your screen that there are a number of public comments that come out of the ICANN process. They publish something publicly asking us publicly to respond publicly.

The official ones you can see that we have [inaudible] in front of you. The first one goes to the root server. The second to the strategic plan, ICANN Org. The third to the [inaudible] review.

Now, the root server, I am [inaudible] whatsoever. Mark, if you are on the line – I believe you are – do you want to say anything about that?

MARK DATYSGELD: Concerning that next-gen consultation, something that I find important right now is that – oh, hello, Steve. I would like to give Steve the opportunity to speak in case he wants to. So, Steve, please. We can continue.

STEVE DELBIANCO: Thank you, Mark. Thanks, everyone. Sorry. I was doing a tax panel and just wrapped up. I understand you're now turning to the next-gen item on the policy calendar. Mark, please do talk about what's happening there. Marie, I'm assuming that earlier you covered the draft that Zak had circulated.

MARIE PATTULLO: No. We haven't got there yet, Steve. But please let Mark [continue].

MARK DATYSGELD: Thank you, all. About the NextGen program, I'm aware that most of you had more contact with the fellowship program than the NextGen. There's a good reason for that. It is a program very focused on academia. That's the entire gist of it. Even within the academia pool, we get very few applicants that are mastering in business or have an MBA going on or something of the sort. It's usually people from humanities and not even economics or things like that. It's usually journalism and so on. So, as a group, we don't have a lot of contact with that group, that program, but I do come from that program. I was a NextGen in 53. So there is hope for the BC in that sense. We just need to work more

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closely with the program. We do need to see more interesting results that we can make use of.

My proposal is focused on helping us track this NextGen. They usually come and go from the meeting very fast and ICANN doesn't really go to any sort of effort around them to help us understand who they are, what they're doing. I myself attend their meetings every time. I go to meet them personally and I try to do it on a one-by-one basis, but it's still very difficult. ICANN Org could sure do some more work on that, at least provide some profiles or something that we can look towards. There's a lot of keeping up with them involved.

I see two hands raised. I'd like to give people an opportunity to talk.

JIMSON OLUFUYE: Yes. I just wanted to [inaudible]. I think that was [inaudible]. Marie, calling on Mark. Is that correct? On the root server system. Just want Steve to know that we are still [inaudible]. But just a little [inaudible] there. Mark Svancarek, can you speak? I think Marie was calling on you.

MARK SVANCAREK: Speak about NextGen?

JIMSON OLUFUYE: No, on the root server system.

MARK SVANCAREK: Oh. My hand was up for NextGen. Jimson and I – well, Jimson mainly – wrote a response to the proposal of the root server system AC regarding a new governance model and we suggested that it was a pretty good one with only a few modifications needed in order for us to approve it going forward. Is that what you meant, Jimson, or something else? Sorry.

JIMSON OLUFUYE: Yes, that's what I meant. Just [inaudible] of the proper caption of where we are. Steve, back to you.

STEVE DELBIANCO: Thank you, Jimson. We have to remember to say Mark SV or Mark Datysgeld. We've got everybody confused. We're at the top of the policy calendar. We're just recapping what we've filed since our last call. We covered the root server one, and on August the 5th, we filed a comment on the financial assumptions and projections. Jimson, thank you for drafting those and to Tim Smith for helping. On August the 4th, we did a comment supporting the draft review of the ccNSO.

We only have two open public comments right now. Those are on the policy calendar in front of you. The first is the GNSO PDP on the inter-governmental organizations and international non-governmental organizations. That's IGO, INGO. The whole question here is how do we give those organizations … Let me give an example of the Red Cross. How do we give the Red Cross access to the rights protection mechanisms for the new generic top-level domains, so that somebody can't acquire a domain name that's designed to fool somebody, that it's

doing disaster relief, and thereby sucking away donations that would have and should have gone to the Red Cross for the purposes of helping people in need?

So, they have a compelling case to make but they've decided they didn't want to just use the standard rights protection mechanisms that businesses and other institutions use in the domain name system today. So that has given arise to a multi-year effort to try to come up with some kind of procedures to make them happy. That's been a very difficult process and the PDP group that Zak served on, Susan Kawaguchi and a number of others in the BC were active on that group trying to figure out recommendations. They came up with five recommendations. The BC at one point about a year ago supported all five, but eventually only four of them were supported by council and council advanced those four and sent them onto the ICANN board.

The fifth recommendation is being sent to an existing working group on RPMs. So, at this point, we have our last-ditch opportunity to advice ICANN's board on what to do as it considers the council recommendations on one through four and the referral number five.

Marie and Jimson had volunteered earlier and then Zak stepped up big, and in about 24 hours, Zak drafted a BC comment. It is attachment number five to your policy. So, let me ask you each to please open that, attachment five. Zak, thank you again for that draft. Zak, I wanted to turn to you. This is the last chance that BC members will have to discuss this because it's due in about eight days. So, Zak, why don't you walk through what you've got in there. Chantelle, I'll display it if you'll give me control of the screen.

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ZAK MUSCOVITCH: Sure. That was an accurate recital of the basic issue there. Essentially, the working group was trying to find ways of meeting the needs of the IGOs and NGOs. Currently, the fundamental issue that they're facing is that when they want to use the UDRP or URS, over the past 20 years, there's been a provision that they must agree to and that's that if they avail themselves of the UDRP, they must agree to go to court for an appeal.

And for IGOs and NGOs, this is tremendously problematic for them, because as entities that do not want to be under the thumb or the auspices of any particular governments, national courts, they can't agree to that kind of term because it goes right to their nature as an organization.

So, over the course of years – the UDRP has been around for 20 years – IGOs and NGOs have occasionally used the UDRP by finding a route around. The way they've done this is they've used an agent or a proxy to commence the UDRP so they wouldn't have to do it [inaudible] the jurisdiction of the national court for an appeal.

So, the IGOs and NGOs, they took the position "we don't want to participate in the UDRP. We'd like our own system." They weren't very specific about the nature of the system they wanted but they wanted us to create essentially a brand new rights protection mechanism that was probably an arbitration system, like an international arbitration system. So the working group looked at the entire landscape. They even hired an outside international law expert to advise.

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So, what they concluded was that the UDRP has been very successful for the last 20 years and it's a great system for rights protection for trademark owners and has recently fared to registrants, non-commercial users and commercial users.

Ideally, we'd like to keep that system intact, but can it be effectively used by IGOs and NGOs? The answer was that it can with some slight modifications to the policy.

For example, we noted that the IGOs and NGOs could still access the UDRP without [inaudible] to a jurisdiction of a national court for disputes by using a proxy or agent and that had, in fact, been done on several occasions before. So the policy should encourage that as a means of allowing them continued access.

Then, in terms of what happens if a registrant appeals a UDRP. There regularly are appeals of UDRP. Fundamentally, in Western democracies, people have the right to appeal decisions and as a part and parcel of the original bargain of putting registrations of domain names into the UDRP, there was always a right of appeal.

So, the conflict that happened with recommendation five is that the majority of the working group, they wanted to say, "Listen, if an IGO and NGO decide not to go to court to enforce the rights and decide to use the UDRP and then gets challenged in court as an appeal, and then the IGO goes to the judge and says, "We are immune as a non-governmental organization," and the judge agrees and balances the appeal from court, the underlying UDRP decision should be [inaudible]. The rationale for that [inaudible] position was that IGOs and NGOs can

go to court without using the UDRP but if they do decide to use the UDRP, they have to agree to an appeal in a court. They shouldn't have [inaudible] using the UDRP but being immunized from an appeal.

The minority position was that, well, if an IGO gets bounced, if an appeal gets bounced from court because of IGO immunity, then it should go to arbitration after that. So, the criticism of that approach was that now we have UDRP, we have court, and an arbitration after. It's just too much, too complicated.

So, both the majority and minority came up with the solutions. IGOs never participated directly in the working group and that was noted by both the majority and minority, so a real consensus [inaudible] developed that included IGOs as a result.

The solution now, as proposed by council, is to have the rights protection mechanism, a working group, further study this. That was actually a compromised position that I had advanced within the working group that wasn't accepted but I think now is the opportunity to reach that compromise.

One other point that was in the chat is that IGOs couldn't use the UDRP because they don't necessarily have trademarks. One of the recommendations that the working group made in that respect was that they can assert common law trademark rights and also rights under certain naming convention called 6ter. So efforts were made to accommodate IGOs, but at the end of the day, they want their own system and that's what the GAC has been pushing for and it seemed unnecessary to create a brand-new system. Thanks.

STEVE DELBIANCO:            Thank you, Zak. We'll take a queue from BC members. I see some activity in the chat from Marie, but Marie, you're free to take a pen and propose edits to the document since we have seven days prior to submission. But Marie, anything you want to share at this point? And I note that Mark has his hand up.

MARIE PATTULLO:             Thanks, Steve, just briefly. Thank you so much for that run-through and for all of the work that you've done on this. Apologies for my [inaudible]. Some of the details into the chat – and again, thanks for that clarity – are both [inaudible] being discussed in council. On top of this, we also have the procedural aspect in that, as you will remember, this has taken quite some time within council and we sent it to the board knowing that it was contrary to GAC advice. Behind the substance, there's also a procedural issue, a policy issue as well, just to make you aware of that. But again, [inaudible].

STEVE DELBIANCO:            Any other questions from BC members? We have seven days to make suggestions or ask questions of our drafter, Zak Muscovitch, and at the end of the seven days we'll submit this comment to the board who may or may not consider it as [inaudible] probably approve what it was council came up with. I'll put the policy calendar back up.

ZAK MUSCOVITCH:    I would just add to that, Steve, if anyone has any suggestions or wishes to discuss it with me, I'm more than happy. I've made every effort to draft the draft comment consistent with the BC's past position and what I thought was a moderate position now. It's not necessarily reflective of mine or the IC's position. In fact, my position and the IC's position at this time is not identical to this. I'm more than happy to accommodate everyone's thoughts and perspectives on this. Thank you.

STEVE DELBIANCO:    Zak, thanks again. I appreciate that. I don't see any other hands up, so I'll move to the next item on the policy calendar which is the NextGen program. I heard Mark Datysgeld describing earlier the work he is doing on that. He has already drafted the first BC response. It's attachment number four to the policy calendar. Given the interest of time, we have nine minutes left. Mark, we won't walk through it with all the BC members on this call, especially because it's not due until the 9th of September. So we have another call between now and then. But BC members, please look at attachment four, particularly if you have any familiarity with the NextGen program. This is your time to offer edits, suggestions, and questions to our drafter, Mark Datysgeld.

The next element in the policy calendar is the long, drawn-out process. We're trying to modify the WHOIS policies to accommodate GDPR. I have to say, in a word, this is going badly. The EPDP phase two, despite the valiant efforts of Mark SV and Margie Milam, our representatives on there, are encountering resistance at every step of the way from the NCSG and many of the contract parties who don't want to accommodate bonafide, legitimate use cases for why somebody would

need – a third party would need – access to non-public registration data. I've highlighted here attachment one was the early input that Mark and Margie had drafted and there's a staff timeline for phase two, which I don't really need you to look at.

Then, we went through use cases that all of you would benefit taking a looking at. These use cases are supposed to describe legitimate third-party interests and once we get through the use cases, they will guide the policy that we create in phase two. But we can't even get agreement on the factual description of legitimate use cases that are fighting us at every step of the way. So on that, Mark and Margie, would you like to add anything to the description of where we are in phase two?

MARK SVANCAREK:     No. We're losing the process that we have written out regarding use cases is a broken process, so even if we had more cooperative people to discuss this with, I think … In phase one, we tried a lot of things. Some of them were failures and we discarded them and tried different things. Ultimately, we sort of figured out how to do phase one, although it wasted a lot of time and that's why phase two is so full of stuff, because phase one took so long. We're doing a similar thing in phase two. We're trying a bunch of stuff and on the list of things that isn't working is the way we've set up the discussion for the use cases.

So, there was a mail from contracted parties yesterday saying, "Hey, let's try something different." It was not a helpful mail because basically it was "be smarter" with no guidance as to what it means to be smarter

or how you should do that or how they should be measured. But I at least took it as an opportunity to reach out to some friendlies over there and say, "Tell me what you want. Give me something actionable that we can do," because this email, although it represents some openness, I think, doesn't really tell me how to move ahead. It just says, "Do something different." If any of you are familiar with the old phrase "bring me a rock" where your boss says, "Go do a thing," and then you do a thing and they say, "No, no, do a different thing," and doesn't give you any guidance, it's very much feeling that even the people who are interested in working with us, they don't know what they want. They just know what they don't want. So we really need some guidance if we're going to move ahead on this. The next couple of days I think will indicate whether or not there's any path forward at all. We'll update you on this at the next meeting. Thanks.

STEVE DELBIANCO:     Mark, thank you very much. What you and Margie are doing is a thankless job and we've got to keep at it or we're not going to get the access we need through phase two. But thank you. There's another call, a two-our call tomorrow. All of you are welcome to listen in, EPDP phase two. I don't see any other hands up and I understand that Barbara Wanner completed a walk through of channel three on CSG and that Marie has adequately covered council under channel two. So, if that's the case, then I'm done with this portion of the policy calendar, and Claudia, Jimson, I can turn it back over to you. Thank you.

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CLAUDIA SELLI:     Thank you, Steve. We are done with all the agenda. We've covered all the topics. I don't know if there are questions or any other issues that members would like to bring up or share. If not, we can adjourn the meeting to the next call. Can you hear me?

UNIDENTIFIED MALE:     Yes, Claudia. Thank you.

CLAUDIA SELLI:     Okay, great. Thank you so much, everybody, for participating to today's call.

**[END OF TRANSCRIPTION]**