

ICANN

**Moderator: Gisella Gruber-White
May 28, 2015
10:00 am CT**

Coordinator: Speakers, recording have been started. You may now begin.

Yolanda Jimenez: Thank you very much. Good morning, good afternoon, good evening. This is the BC members call on May 28, 2015. On the call today we have Elisa Cooper, Steve DelBianco, Susan Kawaguchi, David Fares, Philip Corwin, Angie Grave, Andy Abrams, Jim Baskin, Philip Corwin, (Andrew Harris), (Alex Dickens), (Pat McGowen), (Beth Alegretti), Marie Pattullo. We have apologies from (unintelligible), Stephane Van Gelder, (Ellen Blaker), Andrew Mack, (unintelligible), Martin Sutton, (Paul Mitchell), Marilyn Cade, (Laura Convington) and Ron Andruff. And myself, Yolanda Jimenez.

I would like to remind to all participants to please state your name before speaking for transcription purposes.

Thank you and over to you, Elisa.

Elisa Cooper: Thank you. So we have an always a pretty full agenda. I do want to spend some time talking about the upcoming meeting in Buenos Aires and what we

want to accomplish on constituency day during our meeting on Tuesday. So I want to spend a little time talking about that.

But before I dive into that, are there other topics or items that people want to make sure we spend on time today? And I'll take a queue on that. Okay. Seeing none, I'll ask again.

The first item that I want to open up is I want to talk about exactly what we would like discuss during our Tuesday meeting in Buenos Aires. That's the constituency day. That's when we typically have several hours of time to discuss and present amongst ourselves. This is an open meeting. Now we have our closed meeting on Monday. We have an hour this time due to some scheduling constraints.

So we do have an opportunity on Monday to have a closed meeting to discuss anything that we want to keep private amongst ourselves, but then we have the longer meeting on Tuesday. And then Wednesday we also have a one-hour meeting but we typically reserve that to prep for the public forum.

So again I'm going to open the queue. I'm going to ask folks if you can tell me what it is that you would like to put on the agenda for our meeting in Buenos Aires. Steve? Thank you.

Steve DelBianco: Several BC members seemed surprised about the new meeting schedule that ICANN is proposing, right, with the one very short meeting and the other two structured meetings. And this should be on our agenda to understand it and to potentially raise questions that we have with the meeting strategy group. I believe it's very late to try to change it but we ought to make sure that if we have questions, we get them answered.

Elisa Cooper: Okay. So shall I check and see if there's somebody from the meeting strategy group that can meet with us from ICANN?

Steve DelBianco: If there are sufficient members of the BC who still have a lot of questions about that. I saw quite a bit of e-mail traffic on it last week, Elisa, but let's check with those who are on the phone to see if it's something they care about. Personally I'm not concerned about it.

Elisa Cooper: Okay, I have that down as a potential item. I see Jim has his hand raised.

Jim Baskin: Yes thanks, Elisa. This is Jim Baskin. I just wanted to verify that the new meeting schedule or plan is - starts next year, right? It's not this coming meeting.

Elisa Cooper: Right.

Jim Baskin: Yes, okay.

Elisa Cooper: So I assume we probably want to spend some time on the IANA transition. Is that something that people are interested in talking about and want to spend time talking about? Philip?

Philip Corwin: Well I didn't raise my hand speak on that, but certainly we want to talk about the transition and accountability. But what I was going to suggest is that we might want to get some idea of what - while recognizing that it's the board's function and not the community's, get some idea of what procedures they're going to follow for selection of a new CEO, which is a critical decision, particularly in regard I think in congressional reaction to the transition and whether there'll be any - they're going to seek any input from the community

on the criteria of what type of attributes an idea CEO coming into manage the transition might have.

Elisa Cooper: I think that sounds like something perhaps we should consider raising with the board. We do have sort of 30 minutes to speak on the topic that's just sort of specific to the BC.

Philip Corwin: Oh that's what I meant, to raise with the board when we meet with them.

Elisa Cooper: Okay, yes. Other like thoughts or ideas? I know people are busy and I sent out an e-mail to the list, but I think sometimes just having this open conversation might spur some more ideas. I think David your hand's raised.

David Fares: Yes one of the issues that we flagged for the CSG to discuss at their meeting but I think we probably need to have a conversation about what our next steps are going to be regarding compliance, in particular some of the challenges that we have confronted with ICANN with its lack of enforcement.

Elisa Cooper: Okay. Other ideas of thoughts? So what I have so far as sort of a list of potential topics and I'll like write this up and send it out, maybe it'll spur some more ideas, but perhaps something around the meeting schedule for the new meeting strategy starting next year, something on transition and accountability, something on compliance and enforcement, and with our discussion with the board possibly talking about their criteria and selection of a CEO.

Steve, I think - is your hand raised again? I'm not sure.

Steve DelBianco: Yes it's a new hand. The compliance and enforcement discussion, if in fact we could get somebody from ICANN Legal, we would add to the topic a question

about why ICANN Legal, how they reached the decision to send the .sucks situation to the FTC and the Canadian Consumer Protection Authorities, and then ask them for their reaction to the letter that the FTC send back that I circulated this morning to the BC.

So it's not about us griping and airing concerns, we've already done that; it would be a matter of helping us understand how ICANN Legal thinks through concerns like this. Because it won't be the only - it won't be the last concern we'll have over the conduct of some of the new gTLD registries.

Elisa Cooper: Do you think maybe having a Q&A on Monday with somebody from ICANN Legal during our - do you think maybe this is something we might want to do privately or...?

Steve DelBianco: I'll leave that to you, but the Q&A idea definitely makes sense.

Elisa Cooper: Okay let me check and see what like their availability is. Other thoughts or ideas? These are all really helpful. Other things that people want to hear about in term of things that are going on within ICANN or are there any members that want to share anything that they've been working on in any particular working groups? I don't know if Angie like if there's anything that you would like to share from the standing committee on - SCI. I can't remember what the I is.

Angie Graves: Yes, improvements.

Elisa Cooper: Improvements, yes. Are there any folks that want to share any of the work that they're doing with the larger group?

Angie Graves: Elisa, this is Angie. I'm happy to provide an update but it's - there's not much substance. We've only had one meeting this year. Thanks.

Elisa Cooper: All right. Well this is I think something to get started and then the executive committee I think after this call will probably discuss a little bit further what we might add to this agenda. But if you - if there are ideas or topics or things that you want to be sure that we're discussing at, you know, at the BA meeting, please, please let me know and I'll send out kind of some of these ideas to hopefully spur some other ones.

With that, any...

Steve DelBianco: One more, Elisa.

Elisa Cooper: Yes, yes, Steve?

Steve DelBianco: Sorry, it's the idea that the GNSO reform restructuring GNSO review. Staff is suggesting that that is going to move very quickly. That one is still on cue. So GNSO review is scheduled to be finalized by August of 2015. So let's be sure we truly understand what that review recommendations will be and whether it includes any restructuring or any changes. This was probably our last chance to affect that finalized review, so can we put that on the agenda?

Elisa Cooper: Yes so we would be discussing that amongst ourselves or would we be inviting somebody into discuss with us?

Steve DelBianco: I would check with Glen to see if - are the consultants still involved, if you'll recall the consultants that several of us spoke with, are they still involved in any way. Or what about the ICANN staffer who's running the GNSO 2 review.

Elisa Cooper: Okay.

Steve DelBianco: I would take either the consultant or not, but the staffer is essential. And they would be explaining to us where they're likely headed and give us a chance to understand it better so we can prepare our final set of public comments when the final proposal comes out.

Elisa Cooper: Okay. Sounds good. Any other thoughts or ideas? All right. I will get this drafted and send it out. And then yes let me know if there's any other things that we want to add.

So that said, let's turn it over to you, Steve, to take us through our policy update.

Steve DelBianco: Great. Thanks, Elisa. And sorry that two weeks ago I had such a terrible connection at the airport. I hope today is a little bit better. Yolanda is going to load a PDF version of the policy calendar that I e-mailed to each of you yesterday. So you'll be able to scroll through that either in the Adobe or on the e-mail that I sent you.

First to quickly recap, we put comments in on the second draft proposal on the transition group for the IANA naming functions, known as the CWG. We put those in on the deadline of May 20. We were among the 50 folks who did file comments, and it's a pretty wide range of views that come in on a first comment like this. Some people will just pick a few things they don't agree with, some would support the general principle, and of course there's a lot of questions that are buried in there.

Now staff is only about halfway through their process of categorizing and figuring out how everybody feels about the CWG proposal. But we should see

a staff report very soon on that. And many thanks to all the people that contributed. And Aparna, you took the lead on it and I especially wanted to thank you for that.

We also on May 18 filed comments on IRTP Part C. Susan Kawaguchi did the drafting on that, and we weren't able to get too many other members to speak on it. But thank you, Susan, for taking the lead.

All right let me jump down to the current set of public comments that are open right now. There are eight and not all of them are very urgent. So this is in the middle of the screen right now. Not all of these are very urgent but a few of them are.

The first is the CCWG, that's the Cross-Community Working Group on Accountability. This is related to the IANA transition in the sense that in the absence of the U.S. government oversight through the IANA contract who is it that can hold ICANN accountable to the needs of the community, because ICANN's bylaws do not allow it to be accountable to its members and we want to try to substitute the sort of rough oversight of the U.S. government with a very explicit and enforceable accountability by the community itself.

And the BC has really taken the lead on so much of this work that for us it's been relatively straightforward to know what it is we need to do. But I have to confess as being your rep on this working group, the details are where it really gets tricky figuring out the number of votes and the process for blocking something like a budget change, the process for figuring out how one spills the board, for instance.

So it's a relatively complex proposal and I confess that at well over 100 pages I didn't really expect any of you to read it. I did when I sent out our draft

comment indicate a 12-page slide presentation, and I think I'm going to ask you to load that right now, Yolanda, if you don't mind because there's one page in particular I wanted to call your attention to.

Since I sent these out, Aparna with Google sent back some edits that I'd like to discuss briefly on this call. Amazon came in with similar edits, and 21st Century Fox just today proposed a new item. I don't want to use too much of the time on our agenda today to get through the details but since these are due June 3 we won't be on the phone again as a BC membership to discuss this. So it becomes something we have to do via e-mail, and I wanted to do a couple of straw polls on this.

So the first thing I'll suggest is when Yolanda gets this loaded and gets to Page3, the CCWG has proposed that under California law, members of a nonprofit corporation can block a budget. They can reject the budget of a nonprofit entity. We don't have that right today. We can't do anything except offer comments on the budget.

The proposal we came up with is one where the community would have the opportunity to block a budget. They don't have to approve it, they just have an opportunity to block it. And the first threshold was two-thirds of the community would have to say wait a minute, we've got a problem that we as a community have with this budget. We would ask to identify what the problem is and have two-thirds of the voting that you see in the circle -- each blue dot is a vote -- and that two-thirds threshold then would have to accompany communication to the board explaining what is our problem with this budget and why.

Then the board is supposed to respond with a second round budget. On the second and subsequent rounds, it would take three-quarters of the community

to continue to say no, no you're not getting it right. And we built in a protection that says you cannot come up with new things on the second vote. So we couldn't have said the first time around we're worried that you're not spending enough on compliance and then the second time when the board fixes compliance, we're not allowed to come up with a new item. We're worried about what you're spending on NETmundial for instance.

We've got one shot by identifying our issues, but we have multiple opportunities to say to the board no you're not listening, you're not listening. But the threshold for you're not listening becomes three-quarters. The idea there is that a supermajority of three-quarters is tough to maintain if the community starts to feel like well we've beaten this up enough, the board has come halfway, they've met us halfway. And if one or two ACs or SOs peel off, you lose the three-quarters and the budget proceeds.

If however the community stays united at three-quarters level, there's no fear of having ICANN failing to be able to pay its bills since ICANN can do a continuing resolution to continue to spend money at the prior year's budget level so that it doesn't fail to be able to operate.

So the reason I'm focusing on this one is that Aparna put a good deal of time and thought into some comments that Google circulated yesterday questioning the wisdom of allowing multiple no votes against the budget. So, Aparna, with that set up, I was hoping maybe you could explain your thoughts and your counterproposal and we could get a little straw poll of the BC members on this call. Thank you.

Aparna Sridhar: Sure. Thanks, Steve. I think our principal concern is that multiple rounds of vetoes could be highly inefficient. And I think, you know, throughout all of our comments and I think all of the community's efforts a main sort of

concern has been how do we balance providing increased checks and balances with ensuring that ICANN, the organization, continues to operate efficiently or as efficiency as possible with each check.

And, you know, especially with something like the budget, a potential veto I'm just concerned will put us in the same place we are, you know, in the U.S. political system which is that we basically operate from continuing resolutions and continuing resolutions, and that does not really lend itself to thoughtful budgeting or decision-making because we just can't get everyone to agree.

And so the compromised proposal that I suggested was we would allow a one-time veto and either the board would change its budget or it would provide - the board would change its budget to address the community's concerns or it would provide a detailed explanation for why it wasn't doing so.

And then I think that would - that detailed explanation could be the basis for example for an IRP, where you would look at that explanation and say, "Hey actually this doesn't comport with ICANN's mission or bylaws" or "This goes against what ICANN said in previous iterations" or "ICANN's ignored the comments from the community that were a part of either the community process or the veto process." So it wouldn't be the end of the road, it would just be sort of an end of the veto process. So that's our counterproposal and some of the animating thoughts behind it.

Steve DelBianco: Hey thanks, Aparna, great explanation. And it is indeed creative to have it channel from veto over to an IRP at that point. But it is curious to hear you talk about efficient because the last word I ever associate with ICANN is efficiency. But I do understand...

Aparna Sridhar: I think the point is it will be more efficient.

Steve DelBianco: Agreed. But the problem that you brought up, the one of continuing to run on a continued resolution, it came up during the working group discussions, and I think your solution is quite creative but I did want to hear what other BC members think of the alternative because the proposal that's on the table was it goes to a 75% veto, as I explained earlier, and what Aparna's suggesting is we only get a one-shot veto and then would have to use our other tools to pressure the board.

And knowing that the other tools are tougher to invoke and will take much, much longer to invoke, like an IRP could take several months to a year to spill the board could take quite awhile, those criterion are much tougher. So this is not something we wanted to take a lot of time. The idea was to make sure that ICANN knew precisely where we needed changes to the budget. They would respond with their next best shot. And if they continue to not agree with the community, the idea was you would continue to veto them.

I don't think we would be able to hold 75% of the community if it looked like it was incredibly inefficient or if it looked as if we were stalling ICANN's ability to move ahead. In other words, somebody would peel off: ccNSO, ALAC, GAC, SSAC, RSAC. When a few of those peel off, we lose the 75% and go right back to allowing the board to have its budget. I suppose we could still do an IRP at that point because the board's decision not to listen to us could still be challenged on the basis of the bylaws.

So looking for a queue. And I see (Chris Wilson).

(Chris Wilson): Yes thanks Steve. This is for maybe Aparna getting more clarification, because I know you also suggested some interesting edits on the IRP process itself, so these sort of potentially go hand in hand in terms of whether a budget

review if it goes to the IRP and whether the IRP is looking at sort of just clear air or rather then sort of doing a (unintelligible) review, what that impact may have on, whether that makes it easier for the - potentially for ICANN to get a budget through above objections.

And the other issue is sort of I guess would a budget - we don't like sort of qualify for sort of material harm to the community. I know that's sort of the standing for an IRP is whether we are materially harmed and whether or not that I guess meets the sufficiency requirement if we just wanted the budget isn't, you know, we don't like the budget. I don't know, I'm just sort of throwing it out there for further thought from folks.

Aparna Sridhar: Yes. So I can talk a little bit about the IRP process. So it seems to me that there are kind of two flavors of the IRP that are being proposed -- and Steve correct me if I'm wrong. But one is sort of an individual or an entity bringing a request for review within the IRP and think the material has (unintelligible) and specific there.

But for the community to bring an IRP, you know, I think that the material harm will be to the broader community itself and it ought to be a reasonable argument that if the budget is truly outside of the scope of ICANN's mission then at a minimum sort of the community as a whole is being harmed, I think, you know, the registries and the registrars who pay fees to the extent that they would join, which I would I assume would be yearly necessary for our community IRP would have an equal claim from a monetary businesses based on the fees that they pay to ICANN.

So that's one aspect of it. In terms of the IRP, you know, I think what we don't want - our concern there, and it's partly the abuse of discretion, I know Andrew and I have also been a call back and forth about sort of whether or not

we should be required to participate in the public comment process. And I think our concerns there are really about sort of ensuring that people have the right incentive to participate in the policy development process and in the comment period that ICANN makes available.

Because what we see - what we have seen from the GAC for example, which infuriates us, is that they sit out the whole process and then a decision gets made and then they issue an advice saying we don't like this. And that is - it fundamentally undermines the way that policy is developed in ICANN, and so what we want is to create the right incentive to get the policy right in the first place and then only if ICANN ignores the multi-stakeholder process, then is it appropriate to take advantage of an IRP or it's an issue that was never considered in any sort of policy development process or it's an implementation issue where, you know, it didn't come up in the policy development process. There's lots of exceptions.

But the idea is for both sort of the proposal on the budget and the proposal on abuse of discretion, I don't think we would support a clear air standard because clear air is a very difficult threshold to meet. So abuse of discretion would be preferred in the requirements that participate in the public comment. All three of those are kind of animated by the same concern, which is let's build up the policy development process and have people participate in it first.

Elisa Cooper: (Chris), anything to add to that?

(Chris Wilson): No I mean that's helpful. (Unintelligible) really ultimately whether do we - if we change the IRP process and then we submit a budget - challenge a budget to the IRP whether - how those two go hand and hand and whether the abuse of discretion standard is better or worse than, you know, a three-fourth votes

standard, you know what I'm saying? So I don't know. I may not - maybe we just don't know.

Steve DelBianco: The three-fourth standard to block a budget can be for whatever reason the community has. It doesn't have to be based in the bylaws. The IRP on the other hand, and Aparna helped to make this clear, the IRP is a panel of experts permanently enshrined and compensated. And they are only allowed to look at the bylaws as their standard of review. So that might be useful if ICANN's crazy spending idea was outside of its limited scope and the bylaws would help them to say no.

And we could do that at any time, not just at the annual budget cycle. If for instance in the middle of the year, ICANN decides to put 700,000 to NETmundial initiative, it could be challenged in the middle of the year as a decision that violates the fundamental bylaws, and that IRP could reverse the decision.

But it's only once a year when we have this opportunity to talk about the budget, and the idea there is that the IRP is not a perfect substitute because the IRP can only look at bylaws, whereas the community veto of the budget can be for whatever three-quarters of the entire community agree upon. And I'm not sure found too much that the community agrees upon to that degree but it is a broader standard.

And what might be useful, since we're going to run out of time on this, to get at least the sense of a straw poll from those on the call who think that multiple three-quarter vetoes of the budget or a single veto and rely on other powers. And it's a very creative suggestion from Aparna and Google and I want to give it full consideration, but it's not going to be easy to do this via e-mail.

Can I ask for people to use the green to agree if you would prefer the multiple vetoes of the budget and then we'll do a quick set of agree on Aparna's. And if fact if there's enough agreement on both of them, we might put them in as two alternatives in the BC's comment.

So real quickly could you please use your Adobe Connect and signify and agree if you agree with the three-quarter voting to veto a budget, which is on the screen in front of you. All right I see five, six agrees, seven, keep going. Come on people, we're going to cut the voting off here in five seconds. Okay real good. Thank you. And that was eight agrees.

Now clear the agrees please and let's say who would agree that we should do a single veto and then relay upon our other tools to challenge the board. This is voting with an agree if you think we do a single shot at the veto and then other (tools).

Okay so we see four votes for that. This is not a statistically significant sample and I understand that. But I would ask Aparna then as the maker of that would you prefer to withdraw or have us initiated as an option?

Aparna Sridhar: I think we would prefer to have it initiated as an option. So, you know, alternatively members of the BC suggest or however you do it.

Steve DelBianco: Great. I can easily reword that but would welcome your input on how to word that properly so that the BC recognizes there could be a problem with the continuing resolution of running the same budget year after year. And if others share this concern we have a solution - something that's along those lines?

Aparna Sridhar: Sorry, say it again. You broke up for one second.

Steve DelBianco: We would explain that the BC has concerns that multiple vetoes could lead to continuing resolutions where the budget never changes but we have an answer to that. If others share our concern we have a solution and then we talk about our solution of the single veto. Okay?

Aparna Sridhar: Yes I think that's fine.

Steve DelBianco: Great. I'll work with you on that. All right folks, I have one other item. It's on Page 7 of the proposal. And it gets to do with the recalling the entire board. The CCWG was at a quandary as to what the right threshold ought to be to recall the entire board. Next slide please. It's the whole board slide Yolanda, not the NomCom slide. And...

Yolanda Jimenez: Sorry, should - sorry, should I - yes, sorry. Should I go back to the policy calendar?

Steve DelBianco: No, it's the next slide though. It's the one about removing the entire board, not removing the NomCom members. Keep going.

Yolanda Jimenez: Which one?

Steve DelBianco: All right, let me (get it working).

Yolanda Jimenez: This one.

Man: Go down.

Yolanda Jimenez: Down?

Steve DelBianco: Yes. See the slides aren't numbered so well. It's probably Number 5. That's it, thank you. Stay there real quick. Thanks.

The BC - I had written in my draft that the BC supported the $\frac{3}{4}$ of voting members in favor of recalling the entire board. And I think that Aparna at Google had said you favor the higher threshold of 80. And both numbers were discussed in the document because there was a split of opinion on that.

So Aparna did you want to say anything about why you think 80 is the right number and then we'll do a quick straw poll?

Aparna Sridhar: Yes I'm happy to. I think that we were looking at it from two perspectives. The first is that we thought that recalling the whole board to be harder than enacting a fundamental bylaw. And the second is I was moved by the discussion which I don't think is in this slide, but it's in the longer document that highlights that 80% requires all of the SOs or ACs except one to agree.

And I think the situation here is, you know, there's something - when we're talking about filling the entire board it's fundamentally destabilizing. So we'd rather see the community go down the road of recalling an individual board members or other sort of less broadly disruptive measures before doing this.

Those are the two reasons. That said, you know, we don't feel so strongly about this that, you know, if everyone else thinks 75 is the magic number that's fine.

Steve DelBianco: Yes, good explanation and you're right. The quandary was when the numbers get worked out, because it turns out the (RFSEC) and the (FSEC) they may believe they should get three each instead of two, just for an example. And if we do that we have to rerun the numbers because the idea was that no single

group ought to be able to block dumping the board. It ought to be all but one would get us there.

There were thoughts like that with the numbers. So some of these numbers will change depending upon the first round of public comments. And then the second round of public comments which should conclude right before the Dublin meeting, hopefully we'll have a firmer grasp on it.

So what I think I would like to do right now is do a quick straw poll. Please signify and agree if you think we ought to raise the standard to 80%. So please signify a green check mark if you'd like to go to 80%. You can just not vote or signify a no if you want to leave it at 75%.

And I see three who want to agree to go to 80%. Five seconds more for those who are waiting to vote. All right, let's clear those please. Thank you very much. And let's see green check marks for those who want to stay with 75% just to be sure. I don't want abstentions to count as if somebody had a preference.

So I need green check marks if you want to stay at 75% of voting threshold to spill the entire board. All right that one went eight to three, okay.

So Aparna I'd like to indicate a comment in here. We'll stick with 75 but I'd like to indicate the concern, BC's concern that one group could - I mean I'd like to understand better how it could articulate the concern that you gave verbally as opposed to what was just changing the numbers. So I'm happy to get that from you and add it into the document. How about that?

Okay, thank you. That's all I think I wanted to burn on this call, to talk about the CCWG comments. I really appreciate that everybody's starting to pay

attention to this and look into the document. There's an awful lot of work that went into this, and I think we're pretty close to getting done with our comments.

Oh, you're right. I've got to keep track of - when we do our voting I should keep track of where the votes are coming from in terms of companies. And I'm afraid that I didn't pay attention to that as much as I should have on that first set of voting. I realize we have multiple people on the call from some companies.

Let's now move to the second one. The Registry Stakeholder Group is making charter amendments. It's number two on the policy calendar. Comments are due the 16th of June so we need to get going on that.

Now J. Scott volunteered to research this and help us decide whether we would do comments on it. J. Scott not on the call with us today but if J. Scott determines and drafts something on the registry charter I'll circulate it to everyone.

The Dot Travel Registry Agreement - Phil Corwin get ready because I'm going to turn to you next. But earlier I had asked Ron Andruff to look into this. Ron Andruff was the original operator of the Dot Travel registry and was really involved in that. And he knew a lot about it. I asked Ron to look at it.

He came back not thinking it was too much of material interest to the BC. Phil Corwin then suggested that the ICANN is trying to switch Dot Travel from their old registry agreement to the brand new gTLD registry agreement, the one that's being used for the whole round of new gTLDs.

And if they do this it would mean that the uniform rapid suspension method gets baked in to the Dot Travel Agreement. And Phil's concern which he articulated pretty well in an e-mail that I attached, was the notion that the URS is not the result of a consensus based PDP process. So Phil I'd like to turn to you if I could to cover that.

Phil Corwin: Great, thank you Steve. Can you hear me okay?

Steve DelBianco: Yes we do.

Phil Corwin: Okay. Yes this is - I want to make clear - this is not - the issue before us is not whether URS should become a consensus policy applicable to legacy TLDs. In fact it would be whether all the new RPMs that can be applied. So us a clearinghouse should be applicable to legacy.

This is really about accountability and compliance with the bylaws. At present the RPMs for new TLDs are implementation details for the new TLD program. They are not listed as ICANN consensus policies because they are not whereas the (UDRB) is a consensus policy.

And the Dot Travel is the first legacy TLD to come up for renewal of the registry agreement since the program launched. And in the notice that accompanied the proposed new registry agreement there's a statement with a view to increase the consistency of registry agreements across all gTLDs.

ICANN has proposed that the renewed agreement be based on the new TLD Registry Agreement. Now it says ICANN but that means ICANN staff and the effect of what they've done is they've said that we the staff have decided that the starting point when any legacy TLD comes up for its renewal should be the new TLD Registry Agreement.

That has the de facto effect of turning implementation details into consensus policy. Now the bylaws are quite clear that there's a process for creating consensus policies called the policy development process. ICANN staff is taking this action in advance of even receiving the staff issues report on the new TLD RPMs which will be available in September.

I think this raises substantial accountability and bylaws compliance concerns. I propose that the BC file a letter expressing those concerns. (Stefan) who's not on the call has supported that. Ron clarified in his follow-up e-mail that he had not been aware that URS was in there when he first reviewed the Dot Travel.

So I'd be happy to prepare a draft letter for review by BC members but we're going to have plenty of time to review the new TLD RPMs and decide whether they should be consensus policies for the legacy TLDs way in advance of any of those big legacy TLDs coming up for renewal.

Dot Net comes up in 2017, Dot Com in 2018. If this becomes a consensus policy through the proper process it'll be retroactively applied to Dot Travel. But what ICANN staff is trying to do here is just to my - in my opinion - not following the bylaws, not consistent with accountability. And it needs to be red flagged.

Steve DelBianco: Thank you. Jim Baskin, you're in the queue.

Jim Baskin: Yes, thanks. This is Jim. I generally agree with Philip's interpretation of - or statement that forcing new -- or not new, but forcing things that are - that came out of the new gTLD process into or onto the legacy or the pre-existing TLDs is not proper.

However I think there's another way to view this, and it may be that ICANN staff just put this forward the wrong way. If I'm not mistaken in the past when TLD agreements have come up for renewal or - there's always been an opportunity for modifications to those.

In fact I've always worried or been concerned that it's like a circular thing that each time one of them came up the registry would manage to get some new terms into the agreement that were more favorable to them.

And then as each other TLD came up for renewal, that those other TLDs would grab onto all those benefits that the one TLD got and then add some more of their own. And each time through the cycle, more and more things get added to it through that negotiation process.

But that's - I'm getting off the point. If the URS and maybe any other items that came out of the new gTLD process were offered up or presented as possibilities that could be negotiated with Dot Travel for instance and not as, "This is the new way we're going to do things and this is what Dot Travel needs to sign."

If they came up with, "Let's negotiate a new agreement and here are some of the things that ICANN might like to see in it." In that case, then Dot Travel could have the opportunity to say, "No, that's not part of the agreed upon stuff. We don't like the URS for instance and as we negotiate our contract we don't want that to be put in there." If it were presented that way, it...

Steve DelBianco: Got it. You're going to have time to wordsmith it because it's not due till the 21st of June. What we're mostly looking for is general ideas of should we do a comment and who is volunteering to write it.

Jim Baskin: Okay but I just wanted to make sure that we understood what the possibilities are and it's not necessarily just a black and white thing that ICANN staff is forcing something on Dot Travel. Or it appears that way and that's maybe what we should be commenting on rather than they're doing something absolutely wrong.

If they had put it forward in a different way then maybe it would be reasonable to have that discussion between ICANN and Dot Travel. So again I'll stop now and anybody else has a comment they're free to make one.

Steve DelBianco: Thank you Jim. Appreciate that. Jim can I ask whether you would assist Phil in drafting on this comment?

Jim Baskin: I could - yes I could do that.

Steve DelBianco: Okay. And notice I've already volunteered you Phil, but I believe you were in line for that. I see Phil's hand up and then Andy Abrams. Go ahead Phil.

Phil Corwin: Yes very quickly I understand what Jim just said but there's a difference between kind of non-policy issues -- such as presumptive renewal which was very controversial when first put in the Dot Com renewal in 2006 and now has become a standard feature of all registry agreements -- and this policy which is clearly a policy issue.

And second my information is that Dot Travel was given no choice. They did not volunteer for this. They were told by staff that it was non-negotiable. That's the information I have.

Steve DelBianco: Thank you. Andy Abrams?

Andy Abrams: Thanks Steve. I'm also happy to help with this comment. I think Phil raises some really good points about the process. But as you mentioned I also don't want to lose this opportunity to continue to advocate for application of RPMs to legacy TLDs. And if we have to do it through the consensus - as a consensus policy I think that's fine.

But I think we don't want to completely ignore that fact in this particular letter. And I know that URS has been underwhelming to say the least with new gTLDs. But really it could make a potentially significant difference for bigger legacy TLDs like Dot Com.

And so I think the BC has historically advocated for that and I think we should continue to do so although, you know, perhaps in the right, in the appropriate process as opposed to this one.

Steve DelBianco: Great and when we have concrete examples where URS is not working that would help as well. So Phil I'm going to count on you to have a draft circulated to the BCB by the 8th of June, in time for us to review for two weeks prior to the 21st of June submission date, okay?

Phil Corwin: Happy to do that and you'll probably have it in advance of the 8th.

Steve DelBianco: Fantastic. I would also like to go to the next one which is the release of country and territory names. This is Number 4 on the list as well as Number 8. Number 4 and Number 8 on this list are mostly dot brands but a few are not. So we have Dot Sony is in there, Komatsu who makes tractors, Ricoh, the camera. But we don't have a uniform set.

They're not due till 21st of June. We've done a great set of comments on these because Andy Abrams has led the way with the drafting. And I'm wondering whether we can have a volunteer to do Number 4 and Number 8, do them together as a package if you wish.

And we can get those comments done based on the good work that Andy has done before. Can I get a volunteer on these country/territory names at the second level?

Andy Abrams: Steve I have a question. This is Andy. Given that we've done these repeatedly, do you think - I mean they're going to keep coming. Do you think the BC needs to weigh in on every single dot brand proposal or do you think it's sort of been stated at this point that, you know, we've got a consistent position?

Steve DelBianco: Yes that's a great point and yet I don't believe that staff will reach back into something we've said about BMW and Mini and infer that that means we support Komatsu and Ricoh. So if we are silent we shouldn't assume that staff will think we support it because each of these are done individually.

So that may make it trivial for us as long as the BC wants to continue to weigh in. It could be trivial for us to just rinse and repeat, right, to change the names and resubmit if that's what the BC wants to do. But if we're silent on a given request I don't believe that staff will infer that we support it.

Andy Abrams: Okay. I'm happy to do these again. I think we can kind of do these short and sweet and essentially state that we're being consistent with our previous positions.

Steve DelBianco: Andy I would appreciate that dramatically and if there's no objection from the rest of the BC list if Andy could do 4 and 8, we'll circulate them. After 14-day

review period I'm pretty sure we'll be able to just put them in. Andy thanks again.

All right I was to mention Number 5 and then move on, but Number 5 is about the organization reviews like the GNSO 2 review. I would note as well that Ron Andruff tells us that the BC is probably not paying enough attention to this. There's a whole GNSO Council working party on GNS review.

I need someone to volunteer to read the transcript of their 4th of May meeting. It's right on the screen in front of you. I have a link to it - and the report they gave to Council. Now Susan and Phil you were there at Council. Do you think that the BC has particular interests that are at risk by not paying close enough attention to this?

Susan Kawaguchi: This is Susan. The Web site review - and I can't think of the ICANN staffer that presented to us at the meeting - but they have offered to - the Web Site Team has offered to meet with constituencies. So that might give us an opportunity to get an update and, you know, briefing on what's going on.

And I do think it's an important issue but haven't focused on it myself. I don't know Phil. What do you feel?

Phil Corwin: I would generally agree with that. It's still somewhat unclear what the final report's going to be so we need to wait and see that.

Steve DelBianco: All right. Any volunteers to read those two documents that I indicated in the policy calendar and at least tell us what they think? All right, hearing none I'm going to turn it over to Susan and Phil to discuss Channel 2 which is the GNSO Council. You had a meeting on the 21st of May. And to my notion you

didn't adopt any motions and I attacked the link to the transcript. Anything that Phil and Susan want to talk about with regard to Council?

Phil Corwin: Yes what I've got Steve in terms of action items, there's going to be a final report on new TLD subsequent round which is going to list - basically it's just a list of issues to be addressed. It's going to be a very long list - probably over 100 separate issues.

And so if you have an issue with the second round it's probably listed, and if not there's still time. There'll be a discussion of that document in Buenos Aires. So but this all at a very preliminary stage and that was simply a discussion group. It's not a working group or a PDP or anything like that.

We do need to get any formal comments on the new meeting strategy back to Council by June 3 if we have them. I think members have expressed a general concern about whether it's going to leave groups with enough time at that (B) meeting, the four-day meeting. The Council itself is not quite sure how it's going to get its work done in that abbreviated time frame.

Steve DelBianco: Thanks Phil. Susan do you have anything more to add on Council?

Susan Kawaguchi: Yes one thing I'd brought up on Council was the fact that, you know, the IPC letter and the BC letter and that, you know, there was definitely predatory pricing going on in the Dot-Sex issue over all.

So we can push more as counselors for the Council to address those issues but it may fit primarily in that list of over 100 issues that this working group has come up with. So some guidance on how much we want to push on those, that issue. And, you know, if we want the Council to address it or address it as one of the many issues with the new gTLDs.

Steve DelBianco: Thanks Susan. (Elisa) sorry we used so much time for policy but back to you for the remainder of the call.

Elisa Cooper: No I think that's great. That's what we should be focusing on. I think given that we heard from Susan and Phil in terms of the Council unless there's anything else we need to talk about there, I want to give a few moments to David Fares just to give a little bit of an update on the CSG meetings coming up in Buenos Aires.

David Fares: Thanks Elisa. There is really not that much to update people on from the last call but I can quickly run through the tentative CSG agenda that we have for BA.

We have the regular CSG breakfast with board members. It'll be Bruce Tonkin and Marcus Kumar. I think it's from 7:30 to 9:00 on Sunday. And then we have the closed CSG meeting from 5:30 to 6:30 on Sunday as well.

And then on Tuesday we have the open meeting from 9:45 to 10:45. And then we have the CSG meeting with the ICANN board. And I'm pleased to say that we were able to get an additional 30 minutes for that meeting.

You might recall that they lumped the CSG together as one constituency and only were going to give us one hour when every other constituency was getting a full hour. So what we were able to negotiate was each constituency would get 30 minutes.

And then we have the CSG breakfast with the NCSG on Wednesday at 7:30 to 8:15. I know it's early but the schedule is really tough and that was the only time we could fit it in. So I should be receiving a more formal and finalized

version of this agenda later today or tomorrow latest. And once I get that I'll circulate it to the entire constituency.

Elisa Cooper: Cool. Any questions for David? All right so we will again working to get all of the materials for BA - a comprehensive agenda so you can see everything all together and know exactly where and when we're meeting just like we did last time. So, you know, that'll be coming.

Anything else that anybody wants to bring to the table before we close? All right, well I want to thank everyone again and we will talk to you soon and then the...

Phil Corwin: Elisa. Elisa, my hand raised.

Elisa Cooper: Oh, sorry. Phil.

Phil Corwin: Yes very briefly, I had brought to the BC's attention sometime in the last month and a half or so concerns about a rising number of domain thefts. There was at that time general support for possibly having - bringing that to the attention of a GNSO Council. I was recently reminded of that by (Marie Petula). That's a concern for her members.

So I'd like to proceed with the very initial step which is an issues identification. This'll be a combination of compliance for non-cooperative registrars, possible policy changes of some of the domain transfer policy mechanisms and development of best practices for registrars and registrants to prevent domain theft.

So this would just be the very initial stage of issue identification. And we'd bring anything back to the BC before it was sent to Council.

Elisa Cooper: Does anyone have an issue - I think that makes a lot of sense - does anybody have an issue with that? I don't think so. Seems like we had support for that last time Phil.

Phil Corwin: Right. Okay I'll go ahead and so something on the preliminary. Thank you.

Elisa Cooper: All right great. Anything else before we move on? Anything else from Council Susan or Phil?

Phil Corwin: Not from me.

Susan Kawaguchi: Not from me.

Elisa Cooper: Okay. All right, great. So we will speak to you all next time. Thank you so much for joining today.

Man: Thank you.

Man: Thank you.

Elisa Cooper: Thanks.

Woman: (Robert) could you please stop the recording of this conference and transfer the lines?

END