ICANN

Moderator: Gisella Gruber-White
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12:07 pm CT

Benedetta Rossi: Thank you very much (Tonya), good morning, good afternoon, good evening this is a BC members taking place on 26 of April 2013.

On the call today we have (Jimson Olufuye), Andy Abrams, Elisa Cooper, David Fares, (Aparna Sridhar), Marilyn Cade, Ayesha Hassan, (Anjali Hansen), Ron Andruff, Susan Kawaguchi, Steve DelBianco, Chris Chaplow, Jim Baskin and Richard Friedman. We have apologies from Caroline Greer, Bill Smith, Zahid Jamil and Frederick Feldman.

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

Elisa Cooper: Thanks Bene, well first of all I'd like to say a special hello to a new member which is Rich Friedman from Pfizer, so welcome Rich to your first business constituency call.

As we're discussing things and I've mentioned this before on previous calls there are a lot of acronyms and I think we're all trying to do our best to explain

what those acronyms are and give some background to some of the issues that we're talking about. But for everyone obviously, you know, I think please use the Adobe Connect or speak up when you need clarification or more information about a particular item or subject or acronym.

So moving on to today's agenda I thought we would start off really with an open discussion and kind of open the floor to share our perceptions and thoughts and sort of the big takeaways from the ICANN meeting. So perhaps those of us who attended can share a bit about that and then sort of open it up for questions to others that we can all answer.

Then we'll move on to a policy update by Steve, (John) and if there's anything that you'd like to go over in terms of the Council we'd love to hear from you on that. Marilyn then will - if there's anything to cover in the CSG cover that. I have a few items and then we have some time for any other business. So why don't we jump in and talk about ICANN 46 which was held in Beijing.

And I guess I'd like to kick it off and then kind of just open it up so - and I'd love to hear from others. But as I mentioned at the top of the call, it feels like in many ways in terms of the new gTLD program which I thought was really one of the core focuses of the meeting along with the Registry Agreement which obviously is an important part of the new gTLD program, the Registrar Accreditation Agreement and then obviously the GAC advice.

It feels like in many ways we're very close to go on to the first new gTLD, in fact the first new gTLD application was supposed to have been signed on April 23, of course that didn't happen. But it feels at the same time while we could be very close, we could be very far from that happening given the GAC advice.

And I don't know if - I'd be happy to give a kind of quick overview of what I took away from the GAC Advisory. But if there's anybody else that would like to share their thoughts on it I'd love to here from - I'm sure everybody would love to hear from others as well.

Steve DelBianco: Elisa hey it's Steve, the entire segment of policy - most of this policy segment coming up is dedicated to the GAC advice, it might be better to stick to them.

Elisa Cooper: Okay, so we'll probably hold off on talking specifically, probably we're going to cover the (RA, the RAA and the GAC Advisory in the policy section.

Steve DelBianco: Fine, I'd like to make an observation on the general meeting if you put me in the queue for that.

Elisa Cooper: Sure.

Marilyn Cade: And it's Marilyn I'm still - I'll try to get into Adobe Connect - can I get in the queue as well?

Elisa Cooper: Sure, so Ron has had his hand up, so Ron and then we'll go to Steve and then Marilyn.

Ron Andruff: Thank you Chair, I think with regard to Beijing it was very much a pivotal meeting as much as when the GAC and the Board had the scorecard.

But I think that the - there were some cavalier statements about what should happen with regard to the GAC and I think people are forgetting how important the GAC is to ICANN as a whole, insomuch as this is the only part - these are the only people from any government in the world and understands

what ICANN is and tries to make it work¸ on our side when they're at the ICANN meeting and on their side when they go home.

So we really need to be very mindful and respectful of what the GAC's doing and - as much as the contracted parties or the want-to-be contracted parties were very upset with these various things that GAC was fore ordered, they were important elements to look at again more closely. So I hope that we can come to (simply) a drafting of a document that really reflects, one, that the GAC advice is important and shouldn't be taken lightly and, two, when it comes to a public comment period on GAC advice, we're wading into very dangerous waters.

And I think that this is a - the second part but GAC - commenting on GAC advice is troublesome insomuch as our CEO is so anxious to make this all happen and God bless him for, you know, being - working 25 hours a day to do it. But this flip-flopping from okay we're going to have - the GAC's giving advice, now we're going to have a public comment. Or it's only going to be the applicants that comment, or now it's going to be everybody can comment or now we've got two comment periods.

It's just confusing and we need to get this message very clearly across that we cannot sent mixed signals out from such a high level of ICANN. And so those are the two issues that I really wanted to get (on the table). And finally the third one was singular plurals, so obviously that's something we need to comment on in my view because that's a critical element as well, thank you.

Elisa Cooper: Thanks Ron - Steve - so actually...

Steve DelBianco: Aside from the new gTLDs there are four observations from Beijing that I think everybody would want to remember, the first is the Accountability and

Transparency Review Team, Version 2 kicked off and it's got a lot of familiar faces on it of people that feel strongly that ICANN needs to be a better job of - particularly accountability.

There's opportunities for the BC to weigh in on that and that's outside of the new gTLD program - that's ATRT we call that. The second is policy versus implementation, I know the new gTLD program sort of stimulated that conversation around things like the Strawman and Rights Protection Mechanisms but it's a far broader discussion and it looks like we're going to have a working group on coming up with a process to define when is implementation actually creating new policy?

What's the definition and what's the process to loop it back in for policymaking changes, it's really going to be important. Another is the Whois extra working group and that's outside of the scope of the new gTLD program- Susan Kawaguchi's of Facebook's on the call and she's part of that group.

And the finally this RAA - the Registrar Accreditation Agreement while it's being negotiated as part of the new gTLD rollout we do think that some of the improvements in the RAA need to trickle over into the old gTLD space at some point as well. So I would point to those four items that came out of Beijing with a lot of momentum and they don't have much to do with the new gTLDs, thanks Elisa.

Elisa Cooper: Great - Marilyn.

Marilyn Cade: Thank you, I think Steve has covered a couple of points I wanted to make that I took away and that is that the ATRT 2 is a priority to us and when we talk

about (netting) next segment I'd like to volunteer to work with others on responding to the questions.

But I think we need to take the ATRT very seriously, the BC has been a leader in that space so I'll just - I support everything that Steve said about they'll be a working group on policy versus implementation and the BC needs to be a thought leader on that and we have good work. I think we need to be strategically thinking about this concept of restructuring of ICANN and restructuring of the processes and working with CSG colleagues.

One of them wants a very aggressive restructuring, we've kind of had the, you know, little red riding hood approach, we had the one wants a very aggressive big bowl of porridge, another wants a middle of the road approach that (deaz) and another wants a minimal approach being the ITC. So on the restructuring I think we need to be thinking strategically and maybe even being the thought leaders on that and I took that away from what we've heard in other conversations.

We need to be thinking about what the extraordinary firms should be spent on at ICANN and limiting the use of auction versus other better solutions because auctions don't serve anybody's interest, they just put money into a pile. And I'm not making a comment about any applicant, I'm just saying for myself looking at it from a business user perspective we got to think about strategically as business users what happens on the - to these extraordinary firms.

And how do we make sure that ICANN's not viewed as selling off parts of the infrastructure of the Internet because that is going to harm us with governments - I'm going to come back to that in our next two statements. I

also think the effect is totally not capital business users and we should be thinking about how we improve that to work with...

Elisa Cooper: Marilyn can you explain - actually before you go on can you just explain very briefly what the ATRT is, why it was formed and what they do and then also what the SSAC is?

Marilyn Cade: Sure, sorry so the - I was on the President Strategy Committee for three years that looked at improvements to ICANN and much of what we proposed was a very elitist group and - but it did take huge public comment.

We proposed a lot of changes, including a change in the relationship of the United States Government to ICANN that led to something called the Affirmation of Commitment. And the Affirmation of Commitment created four review teams, one of which is the Accountability and Transparency Review Team, so that's the acronym - ATRT. ATRT 1 has already concluded, we're now in ATRT 2.

ATRT 2 has a call for public comments on a set of questions about whether their addressing the right issues and I think in Steve's next segment we'll probably talk about how we put together BC comments on ATRT 2. But the issue here is, is ICANN being accountable and transparent and are they meeting their bylaw requirements to act in the public interest? Are they accepting public comments and integrating the input of public comments into positions that they take?

So it's kind of a - I'm trying to think - for a corporation maybe like Pfizer or other corporate it's how we're meeting our corporate responsibility goals and are we adhering to what the bylaws require us to do? On the SSAC, the Security Stability Advisory Committee is a groups of advisors that have

particular expertise in security that acts as sort of a - I don't want to call it a watchdog but I can't come up with a better word.

They are assessing implications and decisions and trying to advise the Board on whether a change that's proposed by somebody like the registries or the registrars or the introduction of massive numbers of new gTLDs, how is it going to affect secure and resilient operation of the Internet's infrastructure? And ICANN has a limited role in that but if you were to use a concrete example in 2002 ICANN introduced new gTLDs that had more than three characters so they went from that DotNet to Dot Museum, Dot-INFO, DotArrow.

Nobody advised the IFCs that we were changing to more than three characters and the non-three character gTLDs didn't resolve for probably about 12 months. So the SSAC looks at issues like that, they look at integrity of Whois, etc. and provide - and they are intended to be in a independent group that provides advice to the Board as a advisory committee - is that okay Elisa?

Elisa Cooper: Yes thanks Marilyn, I think it was just for some of our newer members it's helpful to understand what these acronyms are. I know that Ayesha's had her hand up and I'm sure that some of our other members might have some questions about the meeting. Is there anything else you wanted to add about your perceptions or thoughts on the meeting?

Marilyn Cade: Just one and that is we'll talk about this later but as someone who works with government in a variety of settings, the fact that the government managed to get funding to come and work with themselves and us on Thursday through Wednesday, huge phenomenal commitment.

And I think understanding how important that commitment was is something that the BC needs to better, you know, champion because these governments cannot easily get the funding or easily do the amount of work they did - so I just wanted to supply that.

Elisa Cooper: Thanks Marilyn, Ayesha.

Ayesha Hassan: Thank you, a couple of comments just to support the comments that Ron and Marilyn have made about the GAC, I won't repeat them but I think that that's very important and that links to ICANN in the broader Internet governance landscape in the meetings that many of us will be at where those relationships are important.

So as the BC does develop comments on things I think it's important for us to recognize their efforts. Secondly I wanted to just say that on the ATRT 2 question ICC tried but we're not going to be able to submit comments on - by the first deadline of May 2. So we will try to do comments in the reply comment period and if the BC is going to do the same I'm happy to, you know, share what the thinking is in my membership is about that.

I also think this is very important and there weren't a ton of people in the room at the ATRT 2's meeting but it was a good meeting and they're off to a good start, so I think it will be important for the BC to contribute. I also just wanted to mention I thought that the stakeholder engagement meeting that was held was quite productive and was - the format was in a very constructive workshop kind of format.

For some of us who were there I thought that it was a good way to engage the community in trying to talk about the various elements of stockholder - stakeholder engagement, it will be interesting to see what is done going

forward. My last point would be that in general I thought that our meeting - the BC meeting and the day constituency meeting day was good with the CSG, etc.

And I think it is always helpful to have a mixture of the time that we spend together on certain issues and then looking forward and thinking about new ideas and then the interaction with some of the staff so that members get a chance to interact with the staff on particular issues of interest, so there you go, thank you.

Elisa Cooper: Thank you, other comments or questions for those that attended or thoughts from those - or questions from those that didn't attend - Ron?

Ron Andruff: Just getting off mute here, thank you very much. I just wanted to support or to add on to a comment that Ayesha just made with regard to the constituency day. As those who were in the room when we had our CSG meeting and we talked about the singular plurals issue and we saw that there was a lot of fireworks.

And it came from our colleagues over at the ISPs who were feeling like that we had - that we were cornering them and shoehorning them into a discussion with the Board that they weren't prepared to have, even though they fully agreed that the idea of singulars and plurals was a ludicrous idea on terms of top level domains having, you know, for those who are not familiar we're talking about auto and altos, sport and sports that there should not be two domain names that are so close together.

But there was an issue about the ISP's feeling that they had not had the time to talk about, so I'm not sure if this is the CSG conversation or just the conversation as - from Beijing. But you might want just to consider and

maybe throw this over to the CSG for consideration as to how the construction of the constituency date goes going forward. That in fact maybe we can meet within our constituencies first then come to the table as a group and share ideas and then perhaps take it to - onto the meeting with the Board.

It's just an idea I wanted to throw out there because there wash such - there was a lot of time and energy burned on process as opposed to the discussion of the issue itself in Beijing, thank you.

Marilyn Cade: If I can Elisa can I just comment on that? It's Marilyn with a factual update on that?

Elisa Cooper: Sure.

Marilyn Cade: Given two meeting ago the CSG asked for a change in the meeting schedule on Saturday and Sunday to create a space for constituencies or CSG to meet during the weekend with full support of meeting room from ICANN and that's a pending issue.

And while on the CSG (rep) Elisa our chair is the alternate and it remains a pending issue and I'm not - I don't mean to put you or I on the spot Elisa but maybe we should - there's been a little bit of CSG conversation about this and we have to address this very aggressively. I don't know if (John) is on the call or Zahid, I didn't see him - but this means taking back a space of time on Sunday and dedicating it to the constituency or the CSG so that - that means meeting rooms and demands on ICANN space.

Maybe if we all agree that this is priority and I leave that in your hands Elisa to assess on if this is a priority - the IPC and the ISPs do want to move forward with the idea that we could have meetings on this Sunday.

Elisa Cooper: Yes I think that makes sense and we should take that up with the CSG to see if we can make that happen.

Marilyn Cade: Yes I think that would satisfy Ron this issue, right Elisa - that would help us with that issue that - because ISP - it really wasn't fair of them not to address this issue, they had it by email but they didn't address it. But we need to be - so if we could park that if it's okay with you and come back to it and I'll come back to you Elisa on how we might address it with the CSG.

Elisa Cooper: Yes sounds great - and I think we...

Barbara Wanner: Excuse me Elisa.

Elisa Cooper: Yes?

Barbara Wanner: Hello this is Barbara Wanner calling from the US Council for International Business, I'm sorry that I'm a bit late on this call. But I just wanted to add on the comments made by Ayesha and others concerning the ATRT 2 and the request for comments.

I just wanted to let everyone know that USCIB hopes to make a submission, it's not final as I speak but members think it's sufficiently important to provide their comments to me for a USCIB association-wide submission. They will be high level in nature, members would not prefer to assign numerical values to the specific questions. But we're optimistic that we can get a submission in by May 2 - I just thought that I would offer that to the group.

Elisa Cooper: Oh that's great and, you know, if we're able to collaborate all the better.

Barbara Wanner: Great, thank you.

Elisa Cooper: Yes thank you. I think we should probably move on to sort of our policy
                   discussion and kind of get into the meat because there were some very
                   important policy issues at stake at Beijing - so Steve take it away.

Steve DelBianco: Thanks Elisa but at this point of the discussion we're not focusing what - on
                   specifically what happened in Beijing but what's in front of us on the policy
                   plate, okay.

                   And there were three topics I hope to squeeze into my 15-minute segment, one
                   is the GAC advice about which the BC has an opportunity to comment. The
                   second is that (Anjali Hansen) is our repertoire on comments on the new
                   RAA. As you know the final RAA was just posted and they of course
                   extended their reporting deadline - so (Anjali) working with Susan
                   Kawaguchi, Bill Smith and I think Zahid is going to kick in some help too.

                   But they want to try to come up with BC comments, so I'll let (Anjali) take a
                   few minutes and talk about that and then I think Marilyn - I appreciate you
                   volunteering on ATRT 2 comments. None have been posted and the ATRT 2
                   comments are not on the findings but the team is looking for input on the
                   questions they should raise, input on the (unintelligible) and the framework.

                   So the comments at this point don't require that constituencies take a position
                   or that trade associations take a position. It's merely an opportunity to raise
                   questions with the ATRT - so it's sort of a low bar and I know that deadline is
                   the 2nd of May. So folks I sent around this morning a summary I did of the
                   GAC advice on new gTLDs, I got it down to under two pages in an effort to
                   try to structure the discussion.

It covers a lot of different topics but the only one about which public comments are being solicited is the Section I have under 1B, which covers all of Page 1 and the top of Page 2 and that is about safeguards. The GAC advice also touched on their objections to specific applications, I have that up under 1A and I don't think the BC would comment on that. Is there anybody who thinks...

Elisa Cooper: Steve I don't think we received your document.

David Fares: Yes that's what I - this is David, that's what I was going to say.

Woman: I got it.

Woman: I haven't seen anything.

Woman: It was an email today, right?

Man: An email this morning?

Woman: Yes - I did receive it.

Woman: I received it, for Discussion of BC Comment on GAC Advice for New gTLD's - was that it?

Steve DelBianco: Exactly, exactly - anyone who did not get it so that I can resend?

Woman: Well maybe the secretariat could send it. Did you send it (unintelligible) if it's (unintelligible) if you could just tell us BC private or BC GNSO?

Steve DelBianco: GNSO.

Woman: Yes.

Woman: Oh so it's a public document?

Steve DelBianco: Sure, it's a guide to the GAC - yes you'll see why it's public, there's nothing in there that confidential.

Woman: Oh well maybe someone can just forward it to me.

Steve DelBianco: I just did, I resent it again - we'll see if that gets out and Benedetta are you on the phone with us?

Benedetta Rossi: Yes I (just resent it as well) - I received it.

Steve DelBianco: Great and David I think I'll forward it to you directly then.

David Fares: Okay thanks.

Man: Does it make sense to put it up on the screen?

Steve DelBianco: Benedetta can you do that?

Benedetta Rossi: Yes of course.

Steve DelBianco: Outstanding, good thinking - what a concept, let's use the computer for what it's supposed to do, right.

Marilyn Cade: Except that I'm on my mobile and I can't see anything out of Adobe.

Steve DelBianco: All right so the GAC advice covered a lot of topics but the only one about which the general public is asked to comment on is what we'll call safeguards and I'll go through that and solicit some input from BC members.

That doesn't mean we could not decide the (log a) comment in on something outside of the safeguards and I have four examples where I think we might do that, whether it's solicited or not we could do so. Applicants on the other hand can comment on all of it and I know that we have several applicants on the phone who probably are going to do that on their own.

So under new gTLDs under safeguards the GAC has come up with six safeguards for all TLDs - all new gTLDs and they are extremely robust. Only one of them is arguably in place today - Number 2, where it says that the terms of service that a registrant sees at a new gTLD should tell them that their use of this domain name prohibits malware, (bott nets), phishing, piracy, trademark and copyright. Here's a question, do most people think that TLDs terms of service for registrants already have that in their terms of service?

Marilyn Cade: So I'm sorry Steve I can't - it's Marilyn, I need to ask a qualifying question, while there might be members of the BC who are applicants, we don't deal with applicant issues in the BC. So your question to us is - are viewed as business users, yes?

Steve DelBianco: Yes of course, everything under 1B is safeguards and the BC is invited to comment on everything under safeguards from the BC's position is business registrants and users. So I asked the question, as registrants are we aware that terms of service in TLDs already prohibit a registrant from doing things like malware, (bott nets), phishing, piracy, trademark and copyright and...

Marilyn Cade: So I'm going - sorry, I'm going to comment on - yes I'm going to respond to your question. It's Marilyn speaking for the transcript, I am familiar with what the requirements are but I'm also familiar with the lack of adherence to the requirements.

Steve DelBianco: Great so these six items are something that are really ripe for the BC to comment on and these are the six items right in the middle of the screen on Adobe and for those of you not looking at Adobe, it's in my email under Safeguards for all new gTLDs.

And there's some very rigorous requirements in here that are genuinely new and I guess we would thank the GAC for lobbying a lot of these in there since they reflect concerns the BC has argued for ten years - things like registration abuse problems. Whois accuracy issues, handling complaints, suspending domains, violation of applicable law, fraud and deception. So a lot of this stuff is going to fit very nicely with things that the BC has been concerned with, but it's not as if the BC can pluck off the shelf written positions indicating we wanted to force all six of these unto new gTLD applicants.

So I would like to take a queue within BC about a general sense about whether these first set of six safeguards are things the BC would want to specifically comment on and if so whether you think we ought to support them or not. I'll take a queue.

Marilyn Cade: I'd like to be in the queue, it's Marilyn.

Steve DelBianco: Go ahead Marilyn.

Marilyn Cade: Did you want to take a larger queue?

Steve DelBianco: I do but I didn't hear anybody, so.

Woman: Well I think we're raising our hands on the Adobe Connect.

Steve DelBianco: (Right) I see some hands, I see Susan, Elisa and Phil Corwin - Marilyn first then Elisa, Susan and Phil - thank you.

Marilyn Cade: So I would think it's important to say whether or not we have a conflict of interest in representing contracted parties and I don't represent contracted parties but I do have a concern and have clients who are concerned about ICANN's stability and ability to work with the GAC in a productive and positive way, so I'll just say that before I make the following comment.

I was amazed at the ability of the government to get financial support internally to come to spend all that work time and as somebody who read all the objections and know how hard it is to work at ICANN, I was absolutely phenomenally impressed. And I worked with many of these governments in other settings, other than (Suzanne Sand), the rest of them don't do this work full-time. So I think we need to recognize the commitment of governments in the GAC and then go into some specific issues.

But I'm concerned about language that I heard in the public comment period from (what do you call them) - the IPC who is an officer but also I know this is being transcribed but she's also representing a candidate - I think we need to be really clear in what hat we're wearing at any point when we make comments. Because the governments are very, very sensitive to this and they're trying to understand who the commenters are and what the purpose of the comments are - whether they're representing a candidate or they're coming from a broader public interest perspective.

So I would just say from the BC I hope in our comments we can try to figure out who we are and be very clear about it. And understand that the government really respects the voice to BC probably more than they respect the voice - I know this is being transcribed but I'm going to say it anyway, more than they respect the voice of others. We've always shown huge integrity and I'm just going to say these safeguard issues, those are real, they bring public interest forward.

How they're filled is a different issue than are they relevant and critical if this program is going to work and I hope we can support that they are relevant and critical and then focus on how they get fulfilled.

Steve DelBianco: Thanks Marilyn, as you - as we go down the queue and the rest of the folks, think about not he general but maybe the specific because we do - we have 2 1/2 weeks and we have the time to work this out.

But just generally supporting GAC advice is a little different than saying we think it's new policy or we think it's implementation of old policy. That policy implementation question will be key here because that will help inform whether or not ICANN rejects the GAC advice or suggests that it is going to (log) the ball over to GNSO to develop new policy in a bottom-up way and - so let's try to be more specific if we can. Elisa, Susan, Phil, (Andy) and then David.

Elisa Cooper: Okay so I think there's a bunch of different ways to approach this and things that we can consider. I mean I think - and I know you don't want high level, but I think we can support additional right protection mechanisms and things that will protect consumers and so we can support the safeguard.

The question is in my opinion like actually how does this get implemented? So does something change be - or, you know, is there going to be requirements? Will there be requirements before the new gTLD program is allowed to proceed basically will the applicant have to comply or will there be some - because the issue I have with these safeguards is that they're very general and they don't provide for the applicants a way forward.

So, one, I think we need some more specifics as to how these things would actually be implemented. We can support that these are good things. That said for certain kinds of applicants - oh let me state for the record that I have conflicts all over the place - (Mark Monitor)'s a registrar, I have clients who I've actually provided new gTLD application support for. So, but I'm speaking what I think's best for us - what I'm talking about right now is what I think is probably the best for business.

So yes either we can ask for some specific requirements as to how this would be implemented if they were adopted because the applicants are going to need that. Two, we can also say that sort of single registrant TLDs really like the dot-brands for instance, these aren't really applicable to them, that's another point we might want to make. And because they won't have this requirement for Whois verification checks because they'll be the only registrant and they can ensure that they won't be hosting malware - like all that stuff.

So those are just some ideas and things that, you know, I think we might want to consider when drafting our comments.

Steve DelBianco: Elisa to answer one question you put up - you posed, is the GAC insisting that all this be implemented in contract before the TLDs were launched, and that is implied but not explicitly stated with respect to Section 1B. So I think the

GAC implies they want all this done but they didn't explicitly say don't launch.

Elisa Cooper: Right and then another way forward might be to say, okay we fully support these and we would like to see them implemented by way of a policy development process, so let's move forward and we want these things implemented across all registries, not just new gTLDs.

That's another way forward so that the program could continue to move forward and we get the benefit of all of this for all new gTLD registries - that's another thought or something we might consider.

Marilyn Cade: And...

Steve DelBianco: Elisa that final point was worth emphasizing is that if the BC made a process point it would support the substance of everything said but it could say that this needs to be a policy development process both to adhere to the bottom-up ICANN modeled as well as to have it apply to all TLDs, not just the new ones.

That implication might be though Elisa though is that we would allow the new TLDs to launch under the current Registry Agreement and I think to Marilyn's point the GAC would suggest that that's not what they're after.

Marilyn Cade: And if you would put me in the queue after Bill and anyone else, I'll respond to that idea and the practicality of a (PDP) approach.

Steve DelBianco: Right, we have Susan, Phil, (Andy) and David.

Susan Kawaguchi: So I'm a little bit concerned with two and six of the registry requirements they're proposing. Although, you know, right now in most of the registrar

talks the registrants agree to not infringe and, you know, there should be no fraud or deception.

I mean most of that is in the registrant talks right now but it's how it would be enforced, you know, you get swift action on malware, (botts) and phishing. But, you know, who's going to define, you know, copyright or trademark infringement and I'm really concerned about the applicable law. And so - and also in Number 6 there, you know, it's - if you hit consequences including suspension for inaccurate Whois, although when it's truly the bad guy that's great.

But when people to gain the system and constantly report my, you know, own domain portfolio having an accurate Whois then, you know, Facebook.com does not have an accurate Whois but we get lots of reports for that. So I mean these are good when it's aimed at the bad guy but when they're used against us it's not so good. So I would be a little bit concerned about supporting it and especially the applicable law.

Steve DelBianco: That's great, so examples of unintended consequences would be essential for us to follow that comment. You did say the words these are good, does that mean Susan you think you'd generally support the safeguards but with of course these clarifying questions and avoiding unintended consequences?

Susan Kawaguchi: Right, I mean for example there's, you know, somebody in China owns a Facebook trademark registration, so if they asserted that trademark registration with a registrar and said, you know, take down Facebook.com, you know, obviously most people would not do that.

But - or, you know, then - and it was a shortcut process I'd have a problem with that. I mean I think the registrars and the registries need to be a little

more responsible because they're benefiting from all of these infringing registrations. But also, you know, it takes a lot of evaluation to decide what is truly infringement and what is not. So even though I'd love this, we have to be careful in how it's implemented. So I mean, so I think we just need to, you know, throw some caution in there.

And what is applicable law? Because there's laws that are, you know, who's law are we...

Steve DelBianco: Right, right - if it was where the registrant is based, where the registrar is based, where the user is, where the domain is hosted, where the...

Susan Kawaguchi: Right.

Steve DelBianco: ...there are five or six different ways in which that's potentially determined and all might claim it's applicable.

Susan Kawaguchi: Right and I mean, you know, are you going to assert Chinese law against Facebook? I mean we're not allowed in China, you know, they've blocked us so I mean we just - I think, I mean we deal with that term in every...

Steve DelBianco: Yes we all experience it...

Susan Kawaguchi: ...(aspect) in ICANN.

Steve DelBianco: ...in Beijing.

Susan Kawaguchi: Right, yes.

Steve DelBianco: Yes, two weeks of Facebook withdrawal, I was pulling my hair out

Susan Kawaguchi: Well you can get it on your mobile if you had that, but you are of course...

Steve DelBianco: (Unintelligible), Phil Corwin.

Phil Corwin: Yes thank you Steve, I'm thinking on an individual capacity I haven't' had a chance to consult with my folks yet and this I don't know if they'll have a physician on any of this, but just general observations.

One I know, you know, I heard them in the public forum and I've read since charges that the GACs coming in too late, this should have been put out two years ago, it's too intrusive, it's this or that. But I think the real politics of the situation is that these government representatives met for more than a week and pushed hard to come up with a document to deliver during the meeting, on the last day of the meeting.

And it's - I think the politics are it has to be taken - I'm not saying it has to be agreed to in each and every instance but that if it's - if ICANN's reaction is to say too much, too late, can't deal with it, blowing it off, I think governments will start to disengage from ICANN and that will be deadly for ICANN and real - I the long run. So I think whatever the reaction is from the community and the Board eventually it's got to take this stuff - it's got to deal with this stuff seriously.

Second I think just these general safeguards - we're not even getting into the more detailed ones for other categories of TLDs impose - would impose much more proactive monitoring duties on registries and I think they are utter envisioned and there's going to be a debate about whether that's appropriate enough for the cost implications of that. For example Whois verification, is that the registries job? I thought that was just addressed by the new RAA.

I mean I'm not arguing one way or the other, I'm just saying we're going to see those debates on applicable law to add what's been said. On trademark of course we have UDRP, URS, trademark class, etc. but applicable law even if we deal with one nation - just in the US this week we had a decision on whether the arcane issue.

But it's very important for all user generated content sites of whether or not pre-1972 (stand recordings) is covered by the safe harbor provision of the Digital Millennium Copyright Act and the New York Supreme Court came out with a decision contrary to the Federal Court decision for that circuit and contrary to Ninth Circuit. So applicable law isn't so easy to define even within a single nation on some of these IP issues.

Third I think that Provisions 3 and 6 which refer to the registry suspending domains, I think as soon as you're talking about anyone suspending the names you're back in PIPA, SOPA controversy territory and talking about due process and censorships. Those - anything that...

Steve DelBianco: We have to wrap that up Phil, we've got a lot of queue and we're already out of time - anything else real quick?

Phil Corwin: Well okay.

Steve DelBianco: All right, look Elisa I'm sorry but we've blown through the budgeted time for this and we have barely scratched the surface. If you wish we can schedule a separate call since we do have over two weeks - a separate call to go through this for the BC to develop comments on.

You'll see that on my second page under Item F - Item G, under Item 5 I had several places outside of even safeguard that the BC should consider commenting as well. I did want to given time to (Anjali Hansen) to talk briefly about the RAA comments she's developing and then I need to wrap up the policy section. (Anjali) you want to make a quick comment and...

David Fares: This is David, could I just make one quick statement that I - while I agree with some of the comments that were made I disagree with others. So I look forward to participating in the call devoted to the GAC advice so that we can have a more robust conversation and ensure all the member's views are reflected in the debate.

Anders Halvorsen: This is Anders from WITSA, just very quickly (overbear) I think it's probably warrants more discussion.

I just want to make a very quick general observation and it makes me a little bit concerned that we're even discussing, you know, not taking GAC advice into account here. I mean just a general concern in terms of, you know, ICANN needs to maintain the multi-stakeholder credibility I think - we run a risk here if we don't do that so but yes I agree we should probably have one more discussion on that.

Elisa Cooper: I will schedule a call for mid next week on the topic so that we've got plenty of time to work through our comments.

Steve DelBianco: Great I'll give you a list of times I'm available so that I can help to conduct the call - (Anjali) did you want to make a brief call on RAA?

Anjali Hansen: Yes, Benedetta I sent you a little outline - I don't know if you have time to load it right now, it's by email but I think this is also an issue that we should also have another call about.

And I wanted everyone to know that I have started drafting the RAA comments and I did - I think I bit off quite a bit for given my experience in this area. For the record I do not have a conflict on the RAA except that we are an applicant for (dot BBB), so at some point I suppose I would have a conflict but not currently. So here's the outline of the issues that were previously circulated for adding as comments, it's on the screen now.

And one of the comments was a validation of Whois data, now under the new revisions there's quite a few provisions that address that so I'd just like everyone to look and see. I think one more time in the newer revisions that have been posted if you find anything lacking there that should be addressed, I think one thing is that we want perhaps at least an annual re-verification of Whois data, I think there's some potential for fraud if they were only required to verify at one point.

I think number - the second comment that somebody raised was the (Palinar) practice of compliance, failure should be grounds for termination - I believe that is now sufficiently addressed but again I would ask for your expertise in (re-reading) the provisions and let me know if you disagree that - or if you would like to further comment on how they've addressed that in the current version. I think Susan you were going to provide something on the privacy proxy specifications, so if you can...

Susan Kawaguchi: I haven't read - looked at it since (I came in) to see if they've changed anything, but I'll go back and do that and provide you with the comments.

(Anjali Hansen): Yes there's two specifications involving Whois, so...

Steve DelBianco: I don't think they've changed a proxy though.

Susan Kawaguchi: Oh they didn't, okay.

(Anjali Hansen): Excuse me - all right so that's great and then ICANN, I sent a memo around at 10:30 so you probably haven't had a chance to read it but it's ICANN's memo explaining what they've done in this most recent version and they claim that they've now addressed all outstanding law enforcement concerns so I'd like to hear - I would love to know if law enforcement...

Man: How do we validate that? Who do we even ask in law enforcement?

Woman: Do we have...

Marilyn Cade: I think you could...

Woman: (Bobby Glen).

Marilyn Cade: ...yes just (Bobby).

(Anjali Hansen): Yes (Bobby Glen), yes I...

Steve DelBianco: (Anjali) if you phrase that question together I'll push it over to (Bobby).

(Anjali Hansen): Okay yes I just spoke on the panel with him up at the (Inta Meeting) on the Internet, so - but if you have his email that would be great. And then Steve I think Number 5 is something that you've been particularly interested in and so I would defer to you on that issue.

And then Ron Andruff had stated that, you know, prior to getting these revisions that are more changes we want another opportunity to comment on those. I don't know if it's going to, you know, that could go on endlessly. But I can put that in there as well if you think it's still applicable given that they've come out with what they call a final revision.

So those are just some of the issues that you all had raised initially that I was go- that I had started to draft comments for and then they came out with the revisions, so I think a lot of these issues have been now honed in on and your initial issues may have gone away. But please let me know whoever has time to look at this final version and especially all of the specifications which takes a lot of time but, you know, I would highly appreciate anyone's input.

And so what I was thinking is if people could email me, whoever's interested their comments and I can try to just at least collect them and put them in, you know, a good format we could have another call if you all are interested and have the time or I could just circulate. And we could either do this by email or we could do a call.

Steve DelBianco: These comments are due April - sorry May 13 since the new final was just published on Monday. And thanks (Anjali) for getting started on that, Ron Andruff contributed a paragraph or two and I know Susan (unintelligible) something as well. And let's try to set up a time next week, thanks (Anjali) but Elisa...

(Anjali Hansen): Yes and...

Steve DelBianco: ...I'll give this time back to you and having kind of ruined the agenda like this - sorry about that.

Elisa Cooper: Some people raised their hand, I don't know if that was in relation to this.

Steve DelBianco: We're out of time (on this), so.

Elisa Cooper: Okay out of time, all right (John) is there anything that we should know in terms of an update on the Council.

Marilyn Cade: Elisa could I just get back the CSG time so you could use it for other purposes an we could do a...

Elisa Cooper: Yes thank you, thank you.

Marilyn Cade: You're welcome.

Elisa Cooper: Okay we will move on then.

Benedetta Rossi: Elisa John is not on the call. We don't have either of the counselors on the call.

Elisa Cooper: Okay, just so you know he is sending his apologies. In terms of the other - the last thing I really wanted to cover - Benny if you could give kind of an update on the procedure for elections, we're going to be announcing the official start - or the official start of the election period. If you can kind of go over that whole process that would be great.

Benedetta Rossi: Yes of course, in terms of the timeline, the nomination period for the elections for the Vice Chair for Finance & Operations will begin on the 6th of May and that's a period of two weeks that will continue until the 25th of May. Then we will have a (conference) call or either 22nd or 23rd of May depending on

(Council) availability, which will be as usual the (court subscribed) and posted to the (future) membership list.

The voting will open on the 27th of May for one week until June 3 and the announcement of the outcomes after challenges by the voting officer and validation by the verifying officer will be announced on June 5. Is there anything else we should go over about the election?

Elisa Cooper: No, thank you Benedetta. I would just like to add that there have been a few members that have expressed interest today which is great news.

I would like to add that clearly members from different regions are very much encouraged to apply so that we've got some diverse in terms of geographical representation in the executive committee would be great but, you know, if we're not able to achieve that then obviously we'll need to move forward with the candidates that we will have. So very good on that note, so thank you so much Benedetta.

One other thing that we talked about at the Beijing meeting was sort of putting together this global outreach interest group and I'm not even sure if that's the right name but there were some members that expressed interest in participating in such a group and they were Zahid, (Apina), Ayesha, (Jimson), (Mohammad), Marilyn and (Andy Mack).

And so we don't have time to really obviously dive into this right now but I did want to take note of that and I will reach out to them separately to see if that's something that they still would like to pursue.

Gabriela Szlak: Elisa this is Gabriela from E-Instituto I would like to be - to join the group as well.

Elisa Cooper: Okay, great.

Gabriela Szlak: Thank you.

Elisa Cooper: Yes, also just to let everyone know one thing that we had talked about in one of our meetings recently was additional amendments to the charter that has not fallen off of my list of to do's and it is something that I am - will continue to work on and we'll need to kind of go back and address at end time.

Is there anything else that anyone wanted to cover? So it sounds like as a result of this meeting we will be scheduling it sounds like two calls. One call to do a deeper dive into our comments on the GAC comminica (sic) and another call to get further into our response to the Registrar Accreditation Agreement.

Marilyn Cade: And just one - it's Marilyn, sorry - of the ATRT question specifically - do you want us to try to do that online first?

Elisa Cooper: I think that probably makes sense and it sounds like that's something that you had interest in taking the lead on Marilyn?

Marilyn Cade: Sure I'll just send some introductory questions to the BC private list and ask members what else we would like to add or comment on - is that okay?

Elisa Cooper: Yes, I should probably - that's probably not my place to do that and Steve I'll defer to you on that.

Steve DelBianco: Okay.

Marilyn Cade: Steve is that okay?

Steve DelBianco: Yes.

(Andes):   Hi this is (Andes) from (With Star), just a general observation, if we could schedule the next call try to avoid Friday, I'm conscious that some of our members in a different time zone so this might be quite late for them on a Friday afternoon, evening - that's my only observation.

Elisa Cooper: Okay thank you for that.

(Andrew):   Elisa?

Elisa Cooper: Yes.

(Andrew):   (Andrew), just wanted a quick feedback from Beijing as well - two things. First of all I wanted to thank everybody who was able to make it to the meeting we had with (African) folks, both in terms of our outreach we touched a lot of people in that region who I think are important and that was great.

But just on a personal level the newer members of BC there really is some people who stopped by and say hello and just (show the flag) was really very much appreciated. As a new member I think it made me feel great, but also as a representative of the BC to the wider outside world, especially to (unintelligible) with connections to government. I think it showed us very nicely and really appreciate everybody who was able to do that.

Marilyn Cade: So I'll just follow-up on that, it's Marilyn...

Elisa Cooper: We're just at time so I think we actually have to close the call, I'm sorry. I'll work with Benedetta to schedule those meetings for next week so that we can get our comments prepared and then if anybody has anything else that they can just take it to the list. So I appreciate everyone's time, I know we had a lot to cover today and we'll take it from here. So thank you so much for everyone joining in today's call.

Man: Thank you.

Man: Thank you.

Woman: Thanks.

Woman: Thanks Elisa.

                       END