ICANN

Moderator: Gisella Gruber-White
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Coordinator: Thank you for standing by. At this time I would like to remind all parties that today's conference is being recorded. If you have any objections you may disconnect at this time. All lines will be open and interactive. Thank you.

Chris Chaplow: Thank you. Good morning, good afternoon, good evening everybody. This is the BC Members call at 11:00 am Eastern Time on Tuesday the 18th of December.

On the call we have Elisa Cooper...

Man: (Unintelligible).

Chris Chaplow: Angie Graves, Marilyn Cade, Chris Chaplow, Andy Abrams, Ron Andruff, Phil Corwin, Steve DelBianco, (Katrina Olson) and (Fred Selman). Thank you. Over to you Marilyn.

Marilyn Cade: Thanks. We're going to reorganize the agenda to take some of the short reporting out items first so that we can then devote our time to discussion of

more critical items that are going to support the positions taken by our counselors in the counselor call tomorrow.

And I'm going to just move first of all a report for on consumer choice and confidence and the status on that which Steve DelBianco will do and then Thick Whois which Elisa will do.

I am noting, we don't have John on the call yet but he had reported to us he was going to be on the call. So by making this change in order I think we're also going to be able to take advantage of John joining us hopefully.

So Steve can I turn to you consumer choice and confidence, a really important item for us, not just to the report you're going to make but the fact that this will be the fourth affirmation of commitment working group when it is finally put forward your report on what's going on on this item now in the council?

Steve DelBianco: Thanks Marilyn. We'd covered this before but the Business Constituency has been a leader in responding to the board's request to follow-up on this fourth review called for in the affirmation.

And it's a review of the new gTLD expansion and the extent to which it promoted consumer trust, consumer choice and competition. And that's a review that needs to kick in a year after new gTLDs have begun to be delegated.

So while that review wouldn't begin until sometime in the middle of 2014 we had to lay the groundwork for that now.

And the BC insisted on and got the board to embrace the idea of setting up metrics, measurements, explicit definitions, targets for how we can figure out

if the new gTLD program actually delivered something like choice competition on trust.

This is a big change for ICANN because it's saying before we actually start the program let's understand how the program will be measured. This is the way real businesses run. And I think it's a big step for ICANN in this direction.

So it took over a year but a working group on which John Berard and I were prominent members developed a set of 60 explicit metrics for each of those criteria. And it's a cross constituency, cross community working group that includes the ALAC.

The advice that we are providing to the board then was prepared in the draft. I linked it in the last BC policy calendar that was circulated a week ago. And it'll be in front of GNSO Council for approval at tomorrow's meeting.

So John Berard has made that motion. He'll introduce it. It's been seconded by the ISPs. And we've since aligned support from the registries and registrars to get a majority of that side then getting a majority of the noncontract party houses is somewhat more challenging because we know...

John Berard: This is John Berard joining. Sorry I'm late.

Steve DelBianco: John, glad you're here, just been invoking your name several times here. This is Steve.

John Berard: At what decibel level?

Steve DelBianco: A pretty comfortable one right? And so you'll make introduction tomorrow. And then we've been successful at getting pledges of support from (Alanray) the NonCom rep our side of the house.

We are still working on confirmation that the ISPs and the IPC will support this.

But the IPC was involved heavily in the drafting of these metrics. So I'm confident as long as we communicate with the right people we'll get their support. The ISPs are an unknown to us at this point.

But the BC has a lot at stake here since these metrics will highlight elements of consumer trust. They'll highlight ICANN's obligations of strong contract enforcement particularly in the area of trust.

And they also speak heavily to defensive registrations because we want to measure the extent to which the new gTLD the program generates the requirements for companies to register where they simply redirect to an old domain name.

And we've explicitly got that on the record as showing that that will not be evidence of consumer choice and competition if it's merely a redirect.

And that's one of the reasons this noncommercial stakeholders group opposes the metrics in our advice. And that leads to why John has to work so hard at getting the right votes on the noncontract house.

So John why don't you add to that and we'll see if the members on the call have any questions.

John Berard: Well my interest individually as in establishing rules because I figure as a business person whatever the rules might be, as long as I know what they are and they're persistent and I can manage my investment against them then this is an opportunity to help establish some rules that should guide businesses approach.

Certainly specific aspects like defensive registrations come into play. But I think it's also a bit broader than that.

The other thing is that I guess you mentioned that we do have confirmation from the contracted party side of the house that they are likely to sign on this now that we've negotiated the agreement with Jeff Neuman, the communiqué from Mason Cole, the registrars yesterday expressing their support.

So I look at this as part of a set of actions that the business constituency has taken to help establish a set of rules that has some staying power that will allow businesses to be able to make proper investment decisions.

Marilyn Cade: So...

Steve DelBianco: John, let me just clarify that we are not allowed to make a new rules but it contributes to your whole theory on rules because we made metrics to assess whether the new gTLD program actually accomplish its objectives. But we tried to be very...

John Berard: I - you're absolutely right. I'm not saying that we have established rules but we are, we're establishing a framework that will lead to a little bit more persistent and consistent approach. And I think that's to the benefit of businesses that are relying upon the Internet as part of their present and future.

Marilyn Cade: Steve it's Marilyn. Can I get in the queue? But let me ask you to invite others first and then I'll speak after others do.

Steve DelBianco: Great. So we'll take a queue on that Marilyn. Anyone else?

Please go ahead Marilyn.

Marilyn Cade: I think that this is a really important agenda item for the business constituency. First of all it's the fourth affirmation of commitment initiative. But it also incorporates the reinforcement that there will be measurement of defensive registrations.

The timing's a bit out for us. I think we need to keep in mind that - and we're working separately on a timeline that shows how many gTLDs might be launched by different time frames.

But Steve the one thing that concerns me - I like everything we're doing but the one thing that concerns me is whether we can see interim report from the work of the - this initiative in parallel there will be the launch of affirmation of commitment working group in mid-2014.

So the work that is going on in - that we're just talking about is going to be apparent to the AOC launched working group right?

Steve DelBianco: Yes. The board asked for these metrics and measures so that they could begin to be established even before the review team convenes.

We understand that that review team may decide to embrace maybe not all of our 60 metrics. They may go in a different direction.

But the board I think did the right thing here by setting the groundwork. It will be very hard for the Review Team to ignore data that ICANN staff is being directed to to collect on the new gTLD program.

And I think that it's important for GNSOs member on the review team to carry that flag. And I think the ALAC, now I know the ALAC will support us as well. They've been huge allies on this effort.

And the board itself put its stamp of approval on the notion of getting metrics through unanimous resolution in late 2010 through the idea that the board will take this advice letter assuming that GNSO approves it tomorrow.

They'll take the advice letter and direct staff to begin designing systems to collect the data necessary to measure these 60 different metrics.

Marilyn Cade: So can I just count the votes with your help and John's if you don't mind? Could you count the votes for us? It's sounding positive but could you just count the votes?

Steve DelBianco: Yes. As John indicated we're okay on the contract party side based on assurances received from registries and registrars.

On the noncontract party house we know we will not get support from the noncommercial stakeholders group. We need a simple majority of both houses.

Marilyn Cade: Okay.

Steve DelBianco: Simple majority of both houses.

So on the noncontract side house it's essential that we pick up the intellectual property constituency. And they raise very active participant in this group that the participant was Michael Graham, a trademark attorney. It wasn't one of the officers of the IPC.

I've written to Michael twice in the past six days asking him to confirm that he's circled with Metalitz and (Christina) and the folks who will vote. But I haven't got a confirm on that.

Let me add to this that we have to get, again we have to get seven votes on the noncontract party side. So it's essential that we pick up two from the IPC, two from the BC is four.

(Lonra) has said he would vote with us. He's five. We need two more...

Marilyn Cade: Okay could you.

Steve DelBianco: ...where the key is to get the IPC.

Man: Okay in your...

Steve DelBianco: For the ISPs, two of the four votes. And John I'll turn it over to you.

Marilyn Cade: It's Marilyn.

((Crosstalk))

Marilyn Cade: Can I just ask John and Steve? If you email (Brian Peter) and copy Michael in your next communication and on the ISPs may be going to (Tony) and Mikey O'Connor together with the two counselors?

Steve DelBianco: All right that's a great idea. I'll write to (Brian Peter) and copy Michael letting them know that Michael hadn't got back to me but trying to invite him into that conversation.

John, you were going to follow-up with the ISPs since they seconded your motion right?

John Berard: Right. Yes I'll follow-up with them.

Marilyn Cade: Perfect. Well congratulations. I think this is actually the way that we all should be working and good topic, important topic and great outreach to (Lonray) and to the contracted party house.

So should we move to - we'll just stay tuned then. Is there anything else Steve that you and John want to advance on this issue before we talk about Thick Whois?

Steve DelBianco: No. Go ahead. Thank you.

Marilyn Cade: Elisa Thick Whois.

Elisa Cooper: Thanks Marilyn. So real quickly the GNSO Secretariat is organizing kind of this questionnaire for the Thick Whois Working Group. And so a series of 12 questions was sent out. And as the (rappatore) I took an initial path at answering the questions and sent that out to all the members.

And so I've heard back from a few members saying that they were in agreement with the way that they were answered.

But I would invite others to please take a look and if you have any modifications are changes please send them to me and I'll make sure that they're incorporated.

The actual answers are due back. They're requesting that they are sent back by January 9. So we still have a little bit of time.

But essentially the questions that they're hoping to answer have to do with making Thick Whois available, access to Part 483, the escrow of data, formatting of data on Whois records.

And I believe that the way I've answered it is in line with all of our previously stated views. But I would encourage people to take a look at that. So that is all I have on that.

Marilyn Cade: I have one additional item. It's Marilyn. The Fadi Chehade has more or less announced there will be a special working group on This Whois.

And we will be putting forward the names of experts for that if - it'd been my plan to draw from our participants in the Whois Review Team and then take additional interested names beyond that.

So if it is something that those of you on the call we won't just limited it because the participation in the call is fairly short. But we will send out - I will send out a notice. (Benny) will send out a notice advising members of that opportunity.

It will be a pretty hard heads down working initiative. And it's going to be really important that you be able to if you decide to put your name forward to be able to basically embrace fully the full positions of the BC.

But we will come back to you and ask for volunteers.

I want to move us now - I'm going to move past other issues on AOB and move us to the council agenda tomorrow.

And in particular there's a couple of issues that we want to focus on most of our time today on the remaining 40 minutes.

And that is the issues related to the discussion on the council call about Fadi Chehade's letter to the council related to the strawman which is a code word for improvements to the RBMs and the additional recommendation put forward by the IPC for a different initiative outside of the strawman related to improvements in.

And I want to maybe first of all John if you don't mind my asking you to sort of overview the questions that are before the council tomorrow.

John Berard: The question is to simply offer response to Fadi's letter wherein he sought advice and counsel from the council with regard to the strawman and to the limited preventive - and somebody help me with that acronym.

Steve DelBianco: Limited preventative registrations.

John Berard: There you go. Yes, the LPR proposal. Based upon what I have seen on the council list at this point I am - I'm uncertain that it be a consensus will be reached. And I think that there's likelihood that we will (unintelligible) as they did.

Comments of the individual stakeholder groups and constituencies part - as part - that will be part of the public comment period on the two documents.

That doesn't mean that there won't be a response. The response may be though to ask him to pay particular attention to the public comments where - which essentially represents more the horse of a community and the council representing the cart.

I think there's a tendency on Fadi's part look to counsel (unintelligible) cameral body of - that can offer on its own device advice and counsel to the chair which of course we know is not true because the council is linked, hardline linked to constituencies that are part of this.

Some councils of course have more (unintelligible) than others but (unintelligible) none facts without the advice and counsel of the constituency.

So I don't think there will be anything tricky coming in the conversation. They confirmed this lack of consensus and reinforcing the value of the comment.

Marilyn Cade: So John if I could it's Marilyn. I'd like to distinguish the BC's discussion first of all about the strawman and then separately about the limited (Benny) registration.

The XCOM had a call yesterday. And this is not a decision I'll call. It was an exploratory call.

But we did discuss the idea that the strawman is a priority and provides the kinds of improvements that the BC has been asking for.

The limited preventive registration is a new idea and fairly complicated in drawing ICANN into a role.

In my email to all of you just as the chair's advice -- it's not binding -- it's just the chair's advice after the call yesterday is that our priority should be to protect the strawman and probably accept that the limited preventive registration mechanism if it goes forward would require a PDP but to try to keep the strawman out of the PDP.

So let me open a discussion on that approach which bifurcates the two topics and prioritizes the strawman proposal and then go to if we agree, continue to agree with that how do we advance public comments, not only BC public comments which Steve will drive but individual member public comments since that's going to be really a priority to support the strawman. Let me open the queue.

Ron Andruff: This is Ron. I'd like to be in the queue please.

Marilyn Cade: Fine.

Steve DelBianco: Steve as well.

Marilyn Cade: Steve. Anyone else?

                    Let me start with the two of you then Ron.

Ron Andruff: Thank you very much. This is Ron speaking.

                    (John Hayes) forwarded the draft letter that was coming out of Mason Cole. Mason Cole was the pen and that for the response to Fadi's letter.

And so I read that letter yesterday. And I sent back a note to the list and to Fadi. And I said if I read the between the lines -- and I may be oversimplifying it -- it appears the draft to this letter, the contracted parties are using the threat of PDPs delaying the new TLD launch phase to avoid RPMs that the BC feels are critical to ensuring businesses are given a fair shake when the new demands come rolling out.

Am I correct in this assumption or is this more - is there - or is there more to this story that I am missing?

I never got a response. And it seems to me when I read that letter it doesn't fit the bill for what we're looking for so but I - I think I might be missing some pieces of it.

So can someone help clarify that for me? Thank you.

Marilyn Cade: Well I'm going to kick off and turn to John. First of all John posted the initial call to action on this. So I want to turn to John to advise us and then we'll advise a counselor who's traveling on the update. John?

Man: John on mute.

John Berard: Not - sorry. Can you guys hear me?

Marilyn Cade: Yes.

Man: Yes.

John Berard: Hold on one second. I'm sorry. I'm trying to do two things at once both of them quite important one of them even dangerous.

Marilyn Cade: Driving.

John Berard: No, no, no, no, no. So do me a favor and repeat the question so that I can give you a real answer.

Marilyn Cade: Ron?

John Berard: Ron, you were talking about the letter that Mason had drafted. I saw your response, your comments that through using the threat of PDP to delay the launch of gTLDs. Is that your concern?

Ron Andruff: Well the question - no it's more -not so concern John but more a question that I'm - when I read that letter it seemed to me that a lot of other things that we at the BC would like to have are being pushed aside and they're using the threat of having to kick some of these things back to PDPs to push it - push through the arguments that they've drafted.

John Berard: Right. So...

Ron Andruff: So...

((Crosstalk))

Ron Andruff: ...I'm just wondering if that's the case or are we happy with what's happening?

John Berard: Right. Well now I don't think we're happy with what's happening. But it is the case. And there are probably five or six threads that are going to wind up getting wrapped around each other to create a bigger piece of yarn.

You've got the ongoing discussion about the difference between policy and implementation which began a couple of months ago.

You've got the letter from the GAC wanting to know why the GNSO counsel can't just abide by law. Why must it try to address what they think is a matter of international law with the PDP process.

You've got the discussion with regard to changing the terms, conditions of the guidebook in general, not just specifically with regard to RPMs.

And so all that is coming together in a way that is sort of aiding and abetting the forces if you call them that like to see the status quo maintained without any new or additional protections.

And so each of them has its own agenda item but ultimately they will all come together. And we will either get through them all or wind up being entangled and stumble. And truth be told I don't know how it's going to come out.

We have been asked by Jonathan to allow for a third hour for conversation on Thursday. So the council meets normally it's scheduled for two hours now it's technically scheduled for three would suggest to me that Jonathan intends not to just deal with the issues but perhaps even get through them.

So I'm quite looking forward to the conversation. I just don't know how it's going to turn out.

Marilyn Cade: It's Marilyn. But can we - let me just go to maybe an underlying question that Ron raised. And then before we go to Steve I'm going to go to Steve as well.

I think we have to separate a discussion about the strawman and the idea that this is about implementation from a broader debate and discussion about how to determine what is within the purview of the GNSO policy council and a discussion about the limited preventive registration if we possibly can.

Otherwise we're going to see the council flounder. And potentially our efforts from the BC to advise the board embody via public comments on the strawman are going to just - the council is going to be in a very negative and a limited position which makes them look like, you know, they're trying to grab back power and authority on the strawman.

So I hear everything John has just said. I think it's really important. And maybe we can come back. Let me turn to Steve and we can come back about a strategy to try to bifurcate the tensions here.

Steve DelBianco: Thanks Marilyn. This is Steve. And the implementation versus policy is the key debate.

Staff and management are the ones who make plans for how to implement the policies that are developed.

And throughout this new gTLD staff and the executives have come up with specific details on implementing something.

One great example is the prioritization draw that was held yesterday in California. That wasn't something developed by council. It was staff and management develop plan to collect comments and they're interested to hear.

But ICANN's management reserves the right to implement as it sees fit policies to come out from the community.

So we have that going for us. Fadi is determined to meet the deadlines and get the clearinghouse up and running in January February. He wants to have this plan stay on schedule.

But he has also embraced management's role at doing what's called implementation.

And thus far he has tried to determine in his own mind and with the assistance of his staff what is implementation and what is policy that requires PDP.

So what we have going for us is that the strawman includes three items that Fadi is suggesting are implementation.

And the letter he is put to council as well as the public comment on the strawman opens the possibility that people could disagree with his (unintelligible) and say that hey that's not implementation. That's policy. That can't be implementation. So that is up for debate.

And as Marilyn said we need a - we need the rhetoric to be able to say his why it's implementation and it's not policy.

And we should certainly fight that battle with respect to the sunrise advance notice, the idea of claims two period for trademark claim notices and also with respect to giving registrants a little bit of a heads-up if they try to register a name that has previously been abusively registered or used in a UDRP or a court proceeding.

So we have to suggest that all those are implementation of previously adopted policies. And if we don't backup Fadi on that then no one else will. It's really just the BC and the IPC were fighting that battle right now.

If we're successful in that regard then we would have to change, dramatically change or defer the letter that Ron spoke of earlier, the letter that Mason Cole and the registrars drafted.

They chose not to address the need for these RPMs but rather to say that there'll policy, they're not implementation.

And John I would say that's not responsive to Fadi's request for input, not responsive. And all of this would lead us to the point of challenging that draft and if not noticed on your agenda for tomorrow as something that would require a vote.

So my guess is they'll discuss the draft but what is the rule, if you don't have consensus than the council cannot issue a letter in response to Fadi. Is that I see it?

John Berard: Yes. Yes I do. I mean I'd be surprised if we could reach consensus. But even if we did we would still need some time to take it back to our constituencies.

Marilyn Cade: Yes John it's Marilyn.

Steve DelBianco: This letter will not go out from council in its current form because we know for sure there won't be consensus about it. But the debate about the letter it' would be so helpful to see if you can, you and (Zahid) can steer the debate into a objective discussion of what's implementation versus policy and the

fact that management -- and remind them -- that management's the one who determines what's implementation.

That is on something that has surfaced for community input at every turn. There are plenty of implementation decisions that are taken without going to the community and doing a PDP.

And we should cite examples like the evaluation periods, the objection periods, the prioritization draw that replaced the digital archery and do our best to support Fadi's contention on that.

But as Marilyn said - let me just wrap up then to say that as Marilyn indicated there is a substantive item on these limited preventative registrations or blocking. And it's - Fadi is not of the opinion that that's implementation. He's of the opinion that that is policy. He has still posted it to get feedback and comment.

And this is just me speaking personally. I believe it's best to steer those who don't think and things or implementation steer them to the LPRs the item that might require a PDP but see if we can get through the other three items as implementation.

And of course we'll have to generate lots of public comment to support that. Thanks Marilyn.

Marilyn Cade: Thanks. So Steve I'm going to make a proposal and then open the queue again.

I think that actually the BCs should have a high level statement that John would make. It's regrettable once again that (Zahid) is not able to participate. But he can read the emails I think and support.

But I think we should have a statement that John could read which basically makes this distinction about implementation and acknowledges that the substantive limited registrations we agree that that is - that would require PDP.

We think any PDP on this issue should be a fast-track PDP and the council should look to fast track those discussions. But in the meantime are statement supports.

And therefore we would ask that the letter, that any communication, any communication from the council acknowledge the distinction between implementation and policy.

And I think if we could do that that would also allow us to - there's a number of applicants - and I understand that there are BC members who have conflicts of interest because they are representing or they themselves are applicants. And that means they have a conflict of interest. That does not mean they can't speak.

But I think we need to understand that a number of participants at the table in the council are anxious about delays. And PDPs will delay moving forward. So...

Steve DelBianco: But Marilyn this is Steve. Are you sure about that?

Marilyn Cade: A PDP unless it's a fast track PDP is a year to 18 months.

Steve DelBianco: But it doesn't delay the launch of new gTLDs. Fadi would proceed with the launch and the PDP would catch up and apply to all gTLDs if and when it were approved.

Marilyn Cade: I think that's true Steve. But I've heard from a number of applicants that they're very nervous about PDPs creating uncertainties that would then come back to affect their operation of the registry.

Steve DelBianco: And they're right about that. All PDPs do that. PDPs affect consensus policies and they're binding on all registrars and registries.

And if some applicants are confused about that they should understand that that can happen any time, not just this year or next year.

Marilyn Cade: I agree.

Steve DelBianco: But I - all I wanted to clarify. And I was very sorry and rude interrupt but I wanted to clarify that it would not delay in any way the launch. It might create uncertainty for the future but it wouldn't delay anything.

(Martin):   Marilyn?

Ron Andruff: This is Ron. This is Ron. Can I just jump in a tangential question to that?

Marilyn Cade: I'm going to take a few. I heard Ron. Is there anyone else (unintelligible)?

(Martin):   (Martin) also please.

Marilyn Cade: Oh (Martin), thanks for joining.

((Crosstalk))

(Martin):   I was late, sorry.

Marilyn Cade: No worries. Ron and (Martin). Ron?

Ron Andruff: Thank you. This is Ron. Steve just speaking to that you're saying that no PDP was would delay the launch. That's fine and that's good.

                    But can you be a little more specific just to help understand what elements are potential PDPs now beside the LPR whatever that is? Is there other ,anything else out there that could be a potential PDPs? Is there an argument about that? Thank you.

Steve DelBianco: Hey Ron it's Steve. And I think you know from the letter that you reviewed and commented on that the contract parties would suggest that even the advanced warning on Sunrise needs a PDP.

                    They would say that given the ability to do trademark claim noting warning notices on previously adjudicated strings wouldn't require a PDP.

                    The even think that extending the claims notices beyond 60 days would require a PDP.

                    And that is an extreme position that I think makes Mason's draft a little bit ridiculous because Fadi had said and we have it in writing from Fadi during the transcript of his calls that he see things like extending the timing is implementation but making it permanent would take policy.

So Fadi has already split that issue it in a fine and subtle way that we should try to support.

So that's a total of four PDPs including LPR. But none of those PDPs delay the launch. The PDPs go on in parallel with the launch of gTLDs. And the PDPs would apply to all TLDs not just a brand-new one.

Ron Andruff: Well that certainly sounds like something that we should all support because the whole purpose of this ICANN process breaking us into two houses and doing all of this was that we are going to have PDPs to develop policy and a council is going to work on smoothing - streamlining those activities for policy development.

So is there something that we could put into the statement that John will make that clarifies that point so it can relieve - remove the fear of delay of launch but make clear that these elements should be moved forward into PDP processing as quickly as possible? Is there something we can do in that way? Thank you.

Steve DelBianco: Makes sense to me. John, what are your thoughts on that?

John Berard: Yes I mean I think that anything that we can do that shows our willingness and a commitment to accelerating the development of policy separate and apart from deciding what's policy and what's implementation I think is totally appropriate.

And, you know, and in fact our statement if that's what it is might even want to makes a point that the whole world is watching.

Marilyn Cade: I like that John.

John Berard: And we can decide to do - we can do whatever we want. But understand that we're being significantly scrutinized and we - and whatever we do needs to be clear and sensible and defendable.

Marilyn Cade: And I'm - I want to go to (Martin) but I'm - it's Marilyn. And I want to come back and be in the queue on this topic myself. (Martin)?

(Martin):   Hi. Thanks. And sorry I did join late. So I'll try not to repeat anything I hope.

                  In terms of what Steve was explaining there I wholeheartedly support. I think Fadi and staff have been very helpful to try and draw the line against implementation versus policy. And we need to build on that.

                  One thing that was apparent through discussions is that whilst people may consider these items to be implementation the pushback on some of this was that it's- oh it's just - it's a change to the applicant guidebook. So therefore if it's a substantial change then it's got to go through due process.

                  And I think that's probably where we just need to be wary of and where anything is parked into the implementation side of things if we can certainly imply that there is little impact for doing certain things then I think they would advance very quickly versus those that may be more substantive that I think will be the focus of attention from those that want to push this really down the policy path.

                  So I just wanted to flag that that it's whilst there's this distinction between policy and implementation that's been drawn up there is also a bit of a battle going on between whatever is implementation is not in the guidebook so just want to flag that now.

Marilyn Cade: (Martin) it's Marilyn. I'm glad a put myself in the queue because I - that was the topic I wanted to address.

You know, the guidebook has a clause in it that has been there from the beginning that says there will be subs attentive changes. Once it's page we will continue to make changes.

I know there are people who want to say any change to the guidebook is policy. And I really respect the point you're making.

But I think as far as the BC is concerned the improvements to the RPMs are (unintelligible) and present focus.

And I think we would still say as the BC that the improvements to the RPMs fall within implementation. And we do not consider them substantial changes to the guidebook.

But I just want to test of that and take (Martin)'s feedback that which is an insight about some of the I think probably what you're hearing (Martin) from the list of some of the applicants.

I think we can easily defend that the strawman proposals on improvements to the RPMs are not substantial changes and they are easily defended as implementation.

So they do represent changes to the guidebook but we would be saying they're changes for the better and not substantial changes while we are accepting that the limited - I've got a look my list up, the limited...

Steve DelBianco: Marilyn I can give you the quote.

((Crosstalk))

Steve DelBianco: ...give you the quote that Fadi used on this if you wish.

Marilyn Cade: Yes, yes.

Steve DelBianco: During the call that Fadi held and I circulated this to the BC last month. When he went through his own analysis of implementation versus policy he said quote, GNSO policy requires us to avoid infringing on the legal rights of others. So it is definitely an implementation item if we are just extending the time period of trademark claims notices.

He went on to say that he was less comfortable that related strings was implementation. And that's what he would ask counsel for guidance on.

So the phrase he used, the catch phrase he used was quote we have a policy not to infringe on the legal rights of others. So whenever we can echo that quote in the comments we make it'll fit into Fadi's current mindset.

Marilyn Cade: Okay I'm fine with that. Does everyone agree? And then I am just sending an email to (Zahid) asking him to follow John's lead on this. And (Martin) is there - is that consistent with what your views are?

(Martin): Absolutely. And perfect Steve because I think he's playing on those theaters that Fadi's put out.

We can back up support. And I think it's more to be on the front foot where there could be some retaliation in terms of applicant guidebook changes.

Marilyn you're absolutely right also in terms of the fact that it is written in a way that will always be a changing document.

And certainly that, you know, is a concern to somebody like me as an applicant how often that would change. But it's there. So we should be able to utilize that as well.

Marilyn Cade: So I think that actually going back to John ideally from the BC perspective I'm going to make a proposal.

I don't see how the council can send a definitive letter forward other than to say there is a public comment process. And the council and the community at large should be watching the public comments that are filed and it's impossible to reach a consensus.

I'm not saying it's impossible to take a vote but impossible to reach a consensus within the GNSO on these particular issues. And we would like to defer to the public comment process.

Now that may not carry the day but I think it helps us with Fadi and with the board.

John, that may mean that you need to have an opening statement or statement at some point?

John Berard: Well...

Marilyn Cade: And we need to figure out how we get support for you.

John Berard: Okay. My - so who's going to work up the draft of this statement? Is that Steve is that - are you going to do that?

Steve DelBianco: I am happy to take first cut right after the call.

Elisa Cooper: (Unintelligible).

John Berard: All right. Okay.

Elisa Cooper: This is Elisa. Can I also get in the queue?

Marilyn Cade: Elisa, go ahead?

Elisa Cooper: So, you know, I'm fully supportive of what has been said so far. But I think it's also important that we go on the record and state that we understand that this was a negotiation that was supportive of these measures but they still don't really go far enough. And there still is risk to brand owners and to end users.

And so I - if we can get that in our statement I think we still need to...

Marilyn Cade: Brilliant.

Elisa Cooper: ...make sure that we're clear on that.

Marilyn Cade: Brilliant. I - it's Marilyn. I think that's right that in making this statement on behalf of the BC, the view of the BC is there still remain risks to users and registrants.

And Steve if you could put that into - and by making the statement it is a statement. So we're sort of saying we're accepting the strawman which we put forward. We agree - we accept that the limited preventive rights mechanism will call for a PDP.

We continue to have concerns and they're stated for the record. Right Elisa?

Elisa Cooper: Yes.

Marilyn Cade: Is that okay Steve?

Steve DelBianco: Yes.

Marilyn Cade: We only have about seven or eight minutes left. This has been very helpful. Is there anyone who hasn't spoken who wants to speak on this issue?

Chris Chaplow: Marilyn Chris here.

Marilyn Cade: Yes?

Chris Chaplow: Just to note that I'm trying to put things together on the timelines. I found the work that Marika did with the PDP research timelines and the gTLDs going forward. Thanks.

Marilyn Cade: And maybe Elisa you and Chris could follow-up on that? We did think yesterday that it would be important for business users to have something visual to look at to alert them to the fact that life is moving on and they're going to be affected by it which brings me to another topic.

I just - I'm going to park it. We had been assured - - it's Marilyn speaking.

We have been assured that there would be information provide a useful to business users who were not registrants to understand the timeline and the implications of various processes.

I haven't seen anything from (Sally). But I have asked her for a conference call. And I will ask for volunteers to join us in a discussion on that call because I think we are going to really need to see from ICANN something more than clipart on the home page describing how this - the timeline is affecting the business users and registrants who are not new registries.

We do have a number of members who are applicants as well as wearing their business user hats. And we will need to begin to talk about how we manage the involvement of diverse groups within the BC.

So we're not going to deal with that today. But we will be having a working session coming up in January and February to try to advance that conversation.

I wanted to just talk about a couple of other quick updates. But let me open this first of all to the members to see if there's any topics that you want to cover the next six minutes that we haven't addressed?

Okay let me - it's Marilyn speaking again. Let me offer congratulations to Ron Andruff who has been elected as the chair of a really critical committee that doesn't always get as much visibility as it should.

But Ron can I turn to you -- and I think (Angie)'s on the phone as well -- and ask you to just quickly describe the committees and why it's important?

Ron Andruff: Thank you Marilyn. It's a pleasure to serve the BC in this capacity. And I know that (Angie) and I've spoken a number of times between the various meetings that we have. And we discussed the various elements.

What we try to bring to the party is as I have put in my note yesterday in terms of clarifying what we do we're really knocking the rough edges off of things and trying to see if they can operate more smoothly within the - in the manner that they were thought through to the roughly where the policy is actually coming about in implementation.

So when we get to a point where we have really turned the issue upside down and backwards a number of times the good thing about the SEI is it really is a very much a nonpartisan body. It's not people trying to politically win the game. Rather it's really about making it - these things work very smoothly.

And so I think that (Angie) and I are really appreciating the fact people bring common sense to this committee and that it's a pleasure to serve as the chair now.

I will be the chair for one year with an option to extend for two. And then my term will be up and we'll have another chair in place.

But what I intend to bring to the SEI, it's a two year old organization out and it's operated quite smoothly.

What I'd like to see is more solid participation in terms of attendance. And I would like to see more respect for the time that we actually get through all of our agenda items in a respectful way of time - looking at time, so within our 60 minute period we can achieve that.

So I'm not going to talk too much more about it. I think it was quite - put all the information about where we are what we're doing in the report I sent out yesterday.

But (Angie) and I are - have our ears wide open. So if there's any thoughts or comments that you have either about the work we're doing or about things that you think we should be looking at as it - as the standing committee by all means just shoot us a note or give us a (unintelligible) on the phone and we will then bring it to our committee and see where it goes from there.

So thank you very much for giving me a moment Marilyn. The SEI is as I say an interesting body and it's a very collegial group. And I think that's what's encouraging about working there. Thank you.

Marilyn Cade: Ron thank you. And I want to congratulate you for having the overwhelming majority of vote. That's a great recommendation for how people perceive your leadership and your ability to influence important outcomes because some key issues will be referred to this group.

Ron Andruff: Thank you.

Marilyn Cade: You're welcome. I am going to take just two minutes to talk about the wicket. And it will just really be two minutes.

A number of members of the BC in their individual capacity participated in the ITU World Congress on International Telecommunications. There's a lot of communication going on about that.

Looking ahead I think what we're going to see at ICANN will be a continued effort to try to - there'll be workshops and other activities at ICANN to try to keep the broader community informed.

And there will be an opportunity for members within the BAC to participate in that. They had a very strong turnout.

I posted a list of the companies who are members of the BC earlier. So I'm not going to say a whole lot more other than to say that it's going to be very, very important that we strengthen and improve ICANN overall and the Internet Governance Forum and show some inclusiveness to governments who are very strong concerns about decisions that are taken and I can so that we are able to advance the success of ICANN and a non-defensive way.

I'm not going to say a whole lot more about it but I will just say it will probably be a good workshop in China. And I'll do my best to make sure that it's held at a time when we can all participate.

Because one of the issues has been those workshops occur at a time when we're all off doing other important work and business.

If anybody wants additional information really happy to talk with you. But there's a number of members who were involved -- PayPal, Facebook, Google, AT&T, Verizon, I think the missing a few battle large - myself, a large number of - WITSA, Tech America, US CIV, so a large number of our members had representation there.

We have three minutes left. Anybody have anything that they particularly want to address before we go away? And Steve I want to thank you for taking this issue forward.

I will remind everyone that I sent a reminder that the ATRT process for nominations for independent experts is open. And if you're interested in putting your name forward do focus on people who have a deep understanding of ICANN. The appointments are made by the Chair and by (Fadi).

There will be one see put forward by the CSG. And that is under discussion by the CSG leadership. But there also are independent experts seats.

And if you're particularly interested there's a process and materials that you need to fill out.

And if you haven't seen my previous postings on it let me know and I'll re-forward it.

One minute to go, anything else that anyone wants to say?

If not let me thank all of you for joining the call and say that (Benny) is returning. I'm delighted to say (Benny) is returning from parental leave. And so we will be able to return to our usual improved organization of our calls and events in January. And you'll be hearing more from her.

If you're not aware of this she and her partner have just had twins. And so it's quite a happy time in their lives. And I know we all wish them very well.

Thanks everyone for joining the call. And Steve thank you so much for picking this up and John for your leadership on these issues.

Steve DelBianco: Thanks everyone.

Chris Chaplow: Thanks Marilyn.

END