ICANN

Moderator: Benedetta Rossi
March 12, 2013
11:00 am CT

Coordinator: Excuse me, everyone. This is the Operator. And I just need to inform all participants that today's conference is being recorded. If you have any objections you may disconnect your line at this time. And you may begin.

Benedetta Rossi: Thank you very much, (Laurie). Good morning, good afternoon, good evening. This is the BC Members pre-Council call taking place on the 12th of March, 2013. On the call today we have Jimson Olufuye, Elisa Cooper, Camille Stewart, Marilyn Cade, Angie Graves, Gabriella Szlak, Marie Pattullo, Bill Smith, Steve DelBianco, Andy Abrams, Philip Corwin, Aparna Sridhar, John Berard and Chris Chaplow.

And we have apologies from Ayesha Hassan and Ron Andruff.

I would like to remind all participants to please state their names before speaking for transcription purposes. Thank you and over to you, Elisa.

Elisa Cooper: Thanks, Bennie. And thank you to everyone for joining today's BC call. Before we get into the agenda I just have a few housekeeping items. Wanted to let everyone know that going forward Bennie will actually be taking

meeting minutes so later in the week you'll be able to receive a copy of those meeting minutes from Bennie.

Also this call is scheduled to run for 60 minutes so I would ask that everyone please be cognizant of the time and of the amount of time that you've been allotted for your particular section. And I would also ask that you not be offended if I ask you to wrap things up so that we can move things along.

Also I would ask that as we have some new members, and I hope we're adding additional members, that we make an effort to not use the acronyms and if we do use the acronyms to please at least the first time you're referring to them explain what the acronym is and what it stands for so that we can decode some of the jargon.

With that I'd like to jump into the agenda. I'd also basically like the calls to be more interactive if possible so, you know, if you have something please do speak up. I know that, you know, myself included can tend to speak and I try to stop and ask for questions but please jump in. I'm not going to be offended at all. I definitely - I think that everyone wants to hear what you have to say.

So with that on our agenda today I thought that I would start with just a quick review of some recent events and then some upcoming dates which I think are important. Then we can have a little bit of a discussion about that.

Then I'll hand it over to Steve; he's going to spend just about 25 minutes on the various policy issues. And there's quite a bit to cover. We'll then have some updates from our councilors and from our CSG Rep - Marilyn. And then I wanted to leave a little bit of room for planning for Beijing in terms of the topics that we want to cover on our agenda and then any other items.

Is there anything else that anyone would like to cover in today's call that is not included on the agenda?

Okay with that I would like to just do a quick review of some recent important events. The first one being that ICANN recently released the list of contention sets for new gTLD applications.

And so what that means is ICANN went through and identified all the new gTLD applications where the strings, the actual to the right of the dot, were going to be considered to be confusingly similar. And they were going to be set aside. And they weren't going to delegate strings that were deemed to be too similar.

And I think we all thought that in cases where there were singular and plural - so let me give you an example - a DotCoupon or a DotCoupons, with an S, that not both of those would be delegated that only one would be allowed to go forward and that those would be put in contention sets. But that's not the case.

And so Steve is actually going to discuss this a little bit further. But this list of potential contention sets the actual contention sets were released and there were only basically four strings that were deemed to be in contention and they were DotUnicorn and DotUnicom because when you put the R and the N together and you're - if you don't see well, like me, that looks like an M.

And then other contention set was between Hotels and Hoteis, which is spelled H-O-T-E-I-S again because the L and the I look very similar. But the important thing to note here is that the singular and the plural as of today are going to be both allowed in the new gTLD landscape. And so I think, as I mentioned, Steve's going to discuss that a little bit in a little bit.

Also of note ICANN announced that NAF - or the National Arbitration Forum - was selected as a URS, Uniform Rapid Suspension, provider, which I think is good news. They currently provide services - arbitration services for the UDRP, the Uniform Dispute Resolution Policy.

Also as late the GAC announced that they need some more time. I think we're expecting to see their guidance come out after the Beijing meeting. I believe that's still the timing for that. And if that's not correct, if someone can let me know, but I believe that's what we're still looking at.

Also recently there were - the ATRT members were selected. This is Accountability and Transparency Review Team. And the Business Constituency put forward Mike Roberts as our endorsed candidate but he was not selected. And in fact there were only two candidates selected for the ATRT. They are Brian Cute from the Contracted Parties. He's representing the Registries. And the other was Avri Doria from our house.

And so it is a little concerning that we don't have a representative on this group. We contacted Steve Crocker but he ensured that possibly the other candidates who were not selected would be contacted for their input but we'll have to see how that goes.

Also the Expert Working Group on new gTLD directory - I'm sorry, not new gTLD directory services - on gTLD directory services, which is essentially Whois, commenced.

And Susan Kawaguchi from Facebook is going to be participating in that. She's not on the call today but just to let you know I believe that we're going

to be sending out a status report every other week and she'll be providing a quick status as to how things are going with that group.

The other sort of interesting thing that's happened in this last period is that all of the new gTLD applicants were encouraged to submit what are called PIC specs, that's Public Interest Commitments.

Those are basically commitments that the new gTLD applicants are making based on what they put in their application. And that's something that the Business Constituency has been concerned about the fact that there is no contractual commitment for the new gTLD registry operators to do what they've put in their application; there's not been a contractual requirement that they actually do that.

So this concern was raised by the GAC - the Governmental Advisory Committee - and as a result ICANN asked that all of the new gTLD applicants revise their contract to include these commitments that the actual new gTLD applicants put in themselves.

Well so as it turned out close to 500 of the applicants actually did provide these commitments which means the vast majority actually did not provide anything to put into their contracts. This is, as I mentioned, something that the BC was very keen on having as a requirement for the applicants.

So let me stop here and ask if there are any questions about any of these topics.

Philip Corwin: Elisa?

Elisa Cooper: Yes.

Philip Corwin: Phil Corwin. Not a question but just wanted to...

Elisa Cooper: I'm sorry - or comment, sorry.

Philip Corwin: Yes, a quick comment on the URS announcement of NAF. Two things, one,
                   ICANN published - the STIRT and for the new ones that's the Special
                   Trademark Issues Recommendation Team which hashed out the final details
                   of the rights protection mechanisms - had recommended that URS providers
                   be put under contract which is also consistent with the BC's position on UDRP
                   providers, some kind of binding agreement.

                   ICANN published just a two-Page memorandum of understanding between
                   them and NAF which just basically tracks the request for proposal; it has no
                   enforcement mechanism. So there is no really enforceable agreement there.

                   Second, the press announcement on that said they were the first of the URS
                   providers but I've heard from at least one other applicant that they've been told
                   by ICANN that ICANN has no plans to appoint any other URS providers any
                   time soon.

                   So I thought those facts should be brought to the attention of the constituency.

Elisa Cooper: Absolutely. Thank you for that. Does anybody else have anything to add to
                   any of these important topics or things you've heard or questions for the full
                   group?

Marilyn Cade: Actually it's Marilyn. Real quickly, Elisa, on the ATRT issue I was told
                   informally that one of the challenges related to the appointment - selection of
                   appointees on the review team has to do with geographic diversity. So maybe

we could just park that awareness for future understanding in relation to nominees that we put forward.

Elisa Cooper: Oh, good point. All right so any other questions or comments or thoughts on any of these or things that people need more information? Okay so quickly just moving on just some important upcoming dates. March 13 is the deadline for new gTLD objections to be filed. On March 26 the trademark clearinghouse will begin accepting submissions. They will begin actually doing the validation.

And on April 23, this is the date that Fadi had mentioned maybe a month ago I think, that this would be the date on which, or around, that we would see the first new gTLD registry actually delegated.

Now that's not to say that this is when the first new gTLD will be launched. I think it would likely happen sometime after that, you know, I mean a month or two after that. But this is a very interesting day and it certainly shows Fadi's commitment to getting this program launched.

Any questions about anything we've talked about so far or anything we want to go back to?

Okay with that I'm going to turn it over to Steve to go through the policy calendar.

Steve DelBianco: Thanks, Elisa. We're already a few minutes over so I'll see if I can make it up. First thing is on policy versus implementation the BC did file comments on policy versus implementation with some broad principles but also we included applying those principles to the four elements of the Strawman, not the limited preventative registration but the four elements of the Strawman.

And we concluded that using our principles those are implementation, those four, not policy. So we are still waiting on ICANN to announce which of the Strawman elements will be implemented with the trademark clearinghouse in the next two months.

I remain optimistic that we'll get a 30-day advance notice on sunrise, an extra 30 days of trademark claims, maybe even trademark claims 2, which is an optional extension of time and also the notion that a trademark owner could register up to 50 other strings for which they don't have a trademark but strings that were previously abusively registered or used and that those, too, would generate claim notices.

So unless anyone has more intel on that we are in a wait and see mode. And reply comments close later this week although we've already filed a comment so I don't think we'll do another.

John Berard: Steve, this is John.

Steve DelBianco: Go ahead, John.

John Berard: So with regard to the Council agenda, jump ahead in order to stitch these two things together, it is a very light Council agenda for Thursday the 14th. I believe that the discussion scheduled for policy versus implementation will be the dominant item on that agenda.

And so we'll have an opportunity both to press our case based upon the comments that we've made but also to get a better sense of where some of the other elements of the GNSO sit with regard to just those questions.

Steve DelBianco: You don't expect an outcome from that discussion then do you?

John Berard: I do not. I do not.

Steve DelBianco: Great...

((Crosstalk))

John Berard: ...you know, as you saw - as you saw from the letter that Jonathan, the Chair of the GNSO Council, ultimately sent in response to a question from Steve Crocker, the Chairman of the Board, with regard to the trademark clearinghouse there is an increased tendency to agree to disagree and to - for the Council to admit that the primary source of input on some of these questions should come from the constituencies and the stakeholder groups. And I suspect that it will be the case with this as well.

Steve DelBianco: That's great, John. If possible try to articulate our position that it's material new obligations that sort of crossed the line from policy to implementation and see what kind of a reaction we might even get to that.

John Berard: Right, the definition of material of course has been somewhat - has been debated a bit. And there have been some who have been trying to suggest that any change that might affect business model, some suggest that any changes might affect contract terms. So there's a number of ways that people are looking at material. And it should be an interesting conversation on Thursday.

Steve DelBianco: Thanks, John. Okay I'll jump to Number 2. Comments are due in about a week, on March 20, on ICANN's proposed new gTLD agreement and that includes the public interest commitments, public interest specifications that Elisa described at the outset.

And my proposal - we didn't get a volunteer to draft anything so my proposal is to draft a brief BC comment that draws upon two previously-approved Business Constituency positions meaning we support the new agreement for the following two reasons, it says that registries have to use registrars agreeing to the very latest registrar accreditation agreement.

We first adopted that position in February of 2012 and put it in two or three of the letters we put to the ICANN Board. And it was one of the elements in the eight improvements that we submitted in Toronto.

The second is the Business Constituency, at the same time, supported the idea that commitments made in an application and commitments and negotiations made with governments to overcome an early warning should become enforceable by ICANN and become part of the contract.

And ICANN gave us exactly what we asked for there by creating this public interest specifications, or PIC - we call it the PIC spec - Specification 11 in the contract.

Now as Elisa articulated there were 500 applicants who updated their PIC specs to include parts of their application and early warnings. But 300 of that 500 was just one company, Donuts.

What I'm more concerned about is there were over 200 early warnings issued by governments on specific applications but only 83 of those applicants chose to copy and paste their discussions and commitments with governments into their PIC spec. And that, to me, is a recipe for disaster; governments that thought that an applicant was accommodating their early warning but then ICANN will not be able to enforce those commitments.

So I could come up with a draft comment that simply relies upon previously BC positions about the public interest commitments and the use of the latest RAA. And those would be in keeping with previous positions. And I could file a comment supporting those changes to the registry agreement.

I will add that several of you, in comments on the list, indicated some concern about the fact that ICANN wants the right to unilaterally amend the registry agreement. And a few of you pointed out that that was - certainly raises some concerns but the BC doesn't have a prior position on that per se.

So, Elisa, if it's okay with you I'll take a quick queue on the level of interest at submitting a comment and then we'll move on.

Elisa Cooper: I'd like to be in the queue.

Steve DelBianco: Elisa, go first.

Elisa Cooper: I support submitting a comment minimally with the two items that we've just discussed and would be amenable to also adding the unilateral issue if we want to dive into that.

Steve DelBianco: Anyone else?

Marilyn Cade: It's Marilyn.

John Berard: This is John, Steve.

Steve DelBianco: John, please.

John Berard: So I have to say that I feel instinctively opposed to the unilateral changing of

terms and conditions of a negotiated contract signed by two parties. I guess

I'm open to why that might be a good thing not just for the current matter but

also as a precedent. But from a business perspective it makes me very anxious

to think that I might enter a contract that could be unilaterally changed.

Steve DelBianco: Let's keep in mind that any consensus policies adopted through a PDP or

Policy Development Process, do result in unilateral changes to contracts and

that's always been the case at ICANN. This went a little further than that to

suggest that even a non-PDP could generate a change to a contract.

John Berard: No I understand that...

((Crosstalk))

John Berard: ...I don't know that I agree that a consensus-driven decision is a unilateral

decision.

Steve DelBianco: It is in the sense that the other side of the contract, the contract party, doesn't

have a choice about it.

John Berard: Right, but they'll have the...

Steve DelBianco: They may not...

John Berard: ...but they do have the opportunity to participate in the...

Steve DelBianco: They do but once the decision is reached to change a consensus policy...

John Berard: Yes. Totally get it. Totally get it but you're right, what is being discussed right now makes that just one step beyond.

Steve DelBianco: That's right. So I have two BC members that indicate some discomfort with the unilateral change. But we would need - I would need to do an email style solicitation on that with the membership over the next eight days to iron that down. Okay everyone?

Marilyn Cade: Steve, it's Marilyn. I'm still in the queue.

Steve DelBianco: Didn't hear you. Sorry, Marilyn. Go ahead.

Bill Smith: And Bill Smith would like to be in the queue as well.

Marilyn Cade: Make sure - you want to just complete your queue and then I'll speak?

Steve DelBianco: Marilyn, Bill Smith, anyone else? Okay Marilyn.

Marilyn Cade: I think it is important that the BC comment. And I think we need to better understand what unilateral change means. For example, the Board putting something out for public comment and getting 400-500 public comments on something before they make a change on an implementation item to me does not represent a unilateral change.

                 So it seems to me that we ought to be trying to clarify what is being changed. Is it creating new policy or is it influencing an implementation issue?

Steve DelBianco: Got it, Marilyn. So the notion there was that in our comment we would ask ICANN to clarify the kinds of changes that they're anticipating, is that right?

Marilyn Cade: Exactly. And take note that at a minimum public comment - a robust public comment process should always occur.

Steve DelBianco: Got it. Bill Smith.

Bill Smith: Sure. So I'm going to speak in favor of the unilateral change with or without public comment. Feel very strongly that the contracted parties have way too much power at ICANN and that this would be a good thing and would send a signal that there's going to be more balance.

                  And the contracted parties do not have to sign the contract that says there is a unilateral change; that's their choice. This is common in membership-based organizations where the organization itself gets to set the terms and there is no real negotiation of the terms.

                  And from our perspective registrars and registries are simply service providers for the millions of registrants that are out there. And we need to be able to adjust policy in a more timely fashion than, for example, the decade that Whois has been going around - the debate around Whois.

                  And if we can't get movement through a PDP or another mechanism then the Board needs to act for the health of the DNS. That needs to be the primary responsibility of ICANN the organization, ICANN the Board and all the participants. So we're in favor of granting the Board, who has a fiduciary responsibility, this power which we believe they have, but putting it into contract terms.

Steve DelBianco: Thank you, Bill. Anyone else in the queue? Great, I'll take it on faith then that the membership wants us to submit a brief comment citing places where the new registry agreement is consistent with BC requests and we will also put

out to our internal list the addition of a comment on the contract unilateral changes.

So, Bill, Elisa, John, Marilyn, I would encourage each of you to respond to that draft by Reply All so that the membership can determine whether we want to add that. So we won't put it up for a vote as to whether the comment on the things that are previous positions; the only thing the BC will poll on in the next several days is this unilateral changes to contracts.

Thanks, everyone, for that discussion.

Number 3 on the list is a Whois registrant identification study. This is something the BC has pushed for. We have until March the 31 to comment on it. I'd like to know whether anyone in the BC would volunteer to help draft a comment supporting this registrant identification study. Anybody who has a lot of experience running Whois for their own companies? I'll put out a solicitation on email for that.

I'm going to jump ahead to Number 6. Number 6 is that ICANN has posted the current state of the negotiations of the registrar accreditation agreement, or RAA. It's the one we were just discussing with respect to being a requirement of the new gTLD registry agreement.

It's a long document, 36 pages, and it has controversial elements in it including the validation of Whois data, which the BC has long supported. But what else is controversial in the RAA? It's the same thing we just covered, ICANN wanting to have the right to unilaterally change the registrar's agreement under the same kind of pretexts and justifications as they would the registry agreement.

So there's probably not a need to go through that entire discussion again with respect to registrars. But we have until March 28 for the initial comments on this. I'd be happy to take a queue, especially a volunteer queue in who wants to work on drafting the BC comments on the RAA. Hearing none I'll put out an email asking for that.

Elisa, that's the only things I was going to cover in the public comment. I will defer to John on anything else he wants to say on Council. I only noted the two items in the agenda. Marilyn will cover CSG.

And now if I could quickly turn - since I still have the time - to cover what I called Channel 4 in the agenda and that's where the BC should do a statement on this notion of string similarity.

Elisa, you brought it up at the beginning of the call and talked about the fact that there are 25 pairs of singular/plural - these are all English terms in the Latin alphabet script - 25 pairs that were not judged to be confusingly similar.

In discussions with BC members I have learned of four types of concerns about this. The first is our customers have a consumer confusion problem in that not remembering whether that was DotAccountant or DotAccountants at the end of the URL for your business.

And they go to the wrong one, they get a different business or you're not there so there's consumer confusion to the detriment of users, which are customers, and registrants, which are the really core of the BC membership.

Number two, this is an additional 25 top level domains for which many of the members of the BC might have to do defensive registrations that they didn't

actually count on. In other words the plural of each of these means there's two places you have to spend money on defensive registrations.

Number three, and I articulated this, I think it's a terrible precedent for the next rounds of gTLD expansion because it really is sending a signal that ICANN doesn't treat plurals as confusingly similar to singulars. So we have a DotNet today; I guess in the future rounds we'd get a DotNets.

Amazon might get DotBook but in the next round we could get DotBooks and they wouldn't be able to object. DotApps, I mean, the list goes on. But, I mean, if plurals are not confusingly similar I think we are going to completely confuse the space on subsequent rounds.

And finally I believe this will reflect very badly on the gTLD expansion since I think that the singular/plural confusion will lead a lot of ICANN critics to say that we don't have any idea what we're doing.

So we need to discuss whether the BC wants to raise concerns like this and if so how would we raise that concern? Because I did the research to conclude there is no public comment period on this. And the only people that can file objections, with a $10,000 check, are applicants or existing gTLD owners.

So we don't have standing to object on that. We could comment on it; we could send a letter to the Board. We could publicly speak about it in Beijing and other places. But to do so we have to adopt a BC position on the singular/plural. We don't have an official position on it. And we could develop one very quickly depending on the level of consensus.

But a lot of this discussion is on how should we make our views known to ICANN in a way that could make a difference. I'll stop there and take a queue on that.

Anjali Hansen: Hi, this is Anjali Hansen. I'd like to be in the queue.

Chris Chaplow: Chris Chaplow too please.

Andy Abrams: This is Andy Abrams. I'd like to be in the queue.

Steve DelBianco: Okay I heard Anjali, Andy Abrams and who else?

Chris Chaplow: Chris, Steve. Can you hear me?

Steve DelBianco: Thank you. Anjali, go first.

Anjali Hansen: Hi. Yes, I'm with the Council of Better Business Bureaus for those of you that don't know me. And I think it's ridiculous that they're going to allow the plural and the singular together. I find it very confusing. And I would recommend that the BC take a position against that.

How you do that I'll leave to the experts in ICANN procedures and that's definitely not me.

Steve DelBianco: Thanks, Anjali. When we do circulate the email please be diligent of hitting Reply All. If people don't reply to the polls that I put out we don't actually know what people think. So thank you very much.

Andy.

Andy Abrams: Yes, I completely agree with you in the BC position on this or at least it seems like the early consensus position. You know, we think it's best for users that there not be plurals and singulars. We think it's actually best for domain name registrants as well. I mean, nobody wants to buy domain name registration and have the same registration for plurals at top level domains.

For what it's worth we're actually - we filed a number of singular top level domains that we thought would be in contention with plurals so we are filing a number of objections by tomorrow's deadline. So if it would be helpful, you know, after we file the objection we'd be happy to share, you know, we've done some research and have some language.

Steve DelBianco: Andy, this is Steve. Thank you for that. And if you are allowed to share the content of the objections you file I would be very grateful to see them in the BC.

Andy Abrams: Okay...

((Crosstalk))

Steve DelBianco: We benefitted from seeing Google's comment on closed generic last Friday. And thank you for doing that. You actually took four really controversial strings, sort of took them off the table with respect of being closed generics. I think that'll go a long way to solve some of that concern but thanks for doing that. And I hope you can share your objections with us.

Andy Abrams: Thanks, Steve.

Steve DelBianco: Chris Chaplow.

Chris Chaplow: Steve, thanks. Yes, I mean, it seems obvious to me that to use the Lord Denning phrase, "The man on the Clapham omnibus," it's going to get confused with this. And I almost want to get on that Clapham omnibus and go around and ask the people. And I just feel that 90% of them are going to agree it's going to be confused.

But we in the BC could do with some data. And I don't know whether we've got the time or the capacity to do a quick survey or create a Web form or something or whether you know of anybody that's doing any survey on this quickly at the moment?

Steve DelBianco: Yes, I don't. But tell me the survey would buttress our concerns, is that what you're thinking?

Chris Chaplow: Well, Yes, just to present the information; do you know that this is what is being proposed? And do you think this will lead to confusion? And see what the results are. To me it's a simple question to a simple consumer.

Steve DelBianco: At the very least we could ask, in our letter to ICANN if the members want to do one, we could actually make that as a strong recommend that before ICANN considers this a closed issue that they should quickly survey the relevant community of global public interest of users and registrants to see if this meets with the global public interest, something like that.

((Crosstalk))

Marilyn Cade: Steve. It's Marilyn. Can I get in the queue?

Steve DelBianco: Chris, was there anything else from you?

Chris Chaplow: No that's it, thank you.

Steve DelBianco: Great. Marilyn and then I heard another voice?

Gabriella Szlak: Yes, this is Gabby, I would like to be in the queue. I was in silent mode, sorry.

Steve DelBianco: Marilyn and then Gabby.

Marilyn Cade: I don't know - it's Marilyn - I don't know if we have time to do a global survey but we certainly could do a Survey Monkey of our own members. And given that we have such a large number of associations I would think that even that alone would be - but I'm not sure we, you know, I think we need to be pushing ICANN to do more fact-based analysis but given the limits of time I wonder if we should try to do something very quickly ourselves?

Steve DelBianco: Marilyn, it's Steve. May I ask you this, though. The BC, if we follow our charter and adopt a comment in the next several days, we would be able to put that comment in with the full authority of the BC.

                   And would that have more weight than doing a survey of all 50 BC members and reporting that, you know, 25 out of 50 members responded and they felt it was a concern? I think it could dilute our concern if we report a survey of - because not all BC members will participate.

Marilyn Cade: Right, so, Steve, I'm not - all I'm proposing is that it's probably too late to get ICANN to do a global survey. So I'm supportive of the BC providing comments. I'm only suggesting we might - we've, you know, I guess I should be really clearer here.

I've done a lot of analysis and retained posters in my history and polls can come out as you want them to so I'm not sure that actually a survey of this nature is going to advance understanding. Maybe for now we should just file the BC comments and talk more about how to encourage ICANN to undertake fact-based analysis.

Steve DelBianco: Great. Thank you. And, Gabby.

Gabriella Szlak: Yes, just to express that we will fully support any comments or different kinds of actions that we will take to address this issue.

And regarding the survey I was just thinking at the time that Marilyn and Chris were talking that my impression is that, for instance, if we do a survey in Latin America about this people just don't know about new gTLDs so it's going to be complicated to ask so specific questions about new gTLDs when companies and consumers are not really aware of the whole program. So I don't know just to raise awareness about this in our group. Thank you.

Steve DelBianco: Yes, in Latin America the plural of Latin is ES more often then S. And there were two or three strings like that, (Borages), Hotel and Hoteles where the plural en Espanol was also deemed to be a different TLD. Thanks, Gabby.

I have to say that if you're able to share with us even the guts of some of your objections that might be useful for the BC to come up with the language necessary to put this comment in. So even if you're able to share ahead of time some of the language I'll use it in drafting something to circulate.

Are there any volunteers on the BC that want to work on drafting this BC comment?

Bill Smith: Steve, this is Bill Smith. I'd like to comment.

Steve DelBianco: Okay so Bill Smith, go ahead.

Bill Smith: Sure. I think we - we, the BC - it would be good for us to put in a comment about how is it or what - what was the charter for the folks who did the contention sets? How is it that plurals were not determined to...

Steve DelBianco: Right, that charter is available on the Website so we can look at that and then critique it as being misinterpreted, is that what you're thinking?

Bill Smith: No actually - I believe Emily Taylor was in that - on that team. And a quick conversation with her indicated that they basically - there were going to be some surprises when this stuff came out. And I took the comment to mean that they were restricted in what they could do potentially.

                   I don't know if that's the case. But if it is this is a critique against, you know, on ICANN to say, look, you need to, you know...

Steve DelBianco: Right, they took the word confusingly similar and narrowly interpreted it to be visually confusingly similar. That's why the lower case I and the capital - sorry, the lower case I and the L ended up being visually confusing in the examples that Elisa read earlier.

Bill Smith: Okay well...

((Crosstalk))

Steve DelBianco: So you make a good point, Bill, that we should look at the charter given to this expert group and we could critique that the charter was too narrow or we could even conclude that the group screwed up.

((Crosstalk))

Steve DelBianco: Let me ask Marilyn, as the expert on this, if we concluded that the charter was misinterpreted or miscommunicated what are the official actions one could take with ICANN? Is this a reconsideration request or some kind of an objection, Marilyn?

Marilyn Cade: Well it could be. But we could also object - to Bill's point - we could object to the - we could - I don't think we filed comments on the charter. And I don't remember that that was open for public comment. We'd have to go back and look quickly.

We could file - we could file a reconsideration and say that ICANN did not take all the data into account. But I think it's more expedient to just push back now and say this is an error. It is going to cause harm to registrants and also cause harm to TLD registries in trying to serve whoever they think their designated market is.

((Crosstalk))

Steve DelBianco: Yes, users as well will be confused.

Elisa Cooper: I think it's pretty clear that there is an issue that we agree that this is a problem. So I think if we can take this to the list and start working on those comments and basically let's move through the rest of the agenda if that's okay with everyone.

Steve DelBianco: Yes, Yes, I'm done. I was leaving the queue open just a tiny bit longer for a volunteer, Elisa, but if we're not hearing any then let's proceed.

Bill Smith: Steve, this is Bill. I'll work with you.

Steve DelBianco: Fabulous. Thank you, Bill.

Bill Smith: Yes.

Steve DelBianco: Elisa, over to you. And I think I brought it in under time.

Elisa Cooper: Yes, no that was great. I think we may have already heard from John but are there any other important updates from the Council that we should be aware of or anything that you need guidance on from us?

John Berard: Hi, Elisa. This is John. So I talked about what I thought would be the most important which is the discussion about the difference between policy and implementation.

There is a late move now to try and make the discussion with regard to the RAA a unilateral action and the appropriateness of the staff having posted something that had not been agreed to and why ICANN has not posted the response from the registrars. So that may become a matter of some interest.

And if it does I will let people know and they can track it on the transcript. I don't think there's any need for people to get up too early to listen in but always more the merrier.

Elisa Cooper: All right that sounds great. Moving on, Marilyn, do you want to give an update on CSG activities, the Commercial Stakeholder Group activities?

Marilyn Cade: So for anyone - it's Marilyn. For anyone who's not familiar with this the BC is one of three constituencies in something called the Commercial Stakeholder Group; we call it the CSG.

There are basically three points I'd just like to cover. One is to advise everyone who is coming to Beijing and maybe Bennie might comment on that later, Elisa. Anyone who's coming to Beijing the Tuesday morning breakfast will be the cross constituency breakfast with the GAC.

That breakfast is 8:15-9:15 so it's shorter than usual but that is at the request of the GAC. And we'll be working on two to three topics of mutual agreement with the GAC.

What you probably should assume is that the focus from the GAC will be on new gTLDs and objections. You will need to rsvp just so we have a head count but Bennie will take care of that as she usually does.

The CSG then goes on to meet with the Board from 11:15 to 12:15. And that is a set time that we continue to maintain. That will be both transcribed and available for - it will have Adobe Connect access I believe, certainly is transcribed so any of you who are not in Beijing will be able to either follow it directly or read the transcript afterward.

We'll be working on topics with the Board and normally what we do is have two to three topics that the CSG puts forward. That - the gathering of those topics will begin now and then be verified with the other two constituencies.

The final point I just would like to mention is while we are in Beijing there is a number of activities that will take place where we will be interacting with the house. And when we - when the CSG left the intercessional session we agreed we would work with the other parts of the house on requests for ICANN funding support.

That's not been finalized but it will be something that we'll need to come back to the members on and figure out what the request will be for ICANN funding support to the constituencies. It is the one area that we were able to agree with the rest of the house that we could possibly collaborate on.

There may be other topics that come up, Elisa, in relation to CSG as we reach out - you and I reach out to the other CSG ExComm. But at this point I think those are the three that are sort of current.

Elisa Cooper: Thanks, Marilyn. That was great. Any questions or comments or thoughts from any of the members on the call about anything that was covered?

Marilyn Cade: Elisa, it's Marilyn. I would like to get in the queue to just add a different topic for everyone to be aware of.

Elisa Cooper: Sure.

Marilyn Cade: Can I do that now?

Elisa Cooper: Yes.

Marilyn Cade: Okay. I wanted to mention that for some of you you're actively involved in Internet governance topics elsewhere. And there will be update sessions

during the ICANN agenda on the regional strategies in Africa, in the AMENA region and in Latin America.

So we do have BC members who in their independent capacity are participating in each of those. There will also be an Internet governance workshop. Since the agenda is not published we can't tell you when those are. But I wanted to mention it since there's - I know Jimson is on the phone and Gabby's on the phone. I don't think Charles is on but several members are independently active in those regional strategy sessions.

And I just wanted to flag it for people since there will be, I was told when I was in Dubai, that there will be working sessions or review sessions scheduled.

Elisa Cooper: Great. Thank you.

Philip Corwin: Elisa?

Elisa Cooper: Yes.

Philip Corwin: Phil Corwin. Just - I want to note we didn't hit Item Number 5 on the public comment list which is the proposal from the Arab Center for Domain Name Dispute Resolution to be a UDRP provider. Comments are due one week from Friday, the 22nd. And the BC has some history on this; filing a comment in September 2010 in opposition focusing not on the qualifications but on the need for a standard agreement as UDRP providers.

Proliferated BC did weigh in a couple weeks ago with the Board when this was on the agenda. And so I was just wondering whether the BC planned to file anything on the 22nd in regard to this realizing that there are two separate

issues; one the revised proposal from the Center and the other the overarching issue of standard agreement for UDRP providers.

Steve DelBianco: Elisa, this is Steve. I could reply to that is that, Phil, as you probably know we do comments based on member interest and you've just expressed the member's interest. But the burden typically falls right back on the member expressing the interest to do a little bit of research, see whether the concerns raised by the BC in the past have been addressed and if they have not it would be appropriate for the BC to reiterate concerns about process.

Did you also believe that we would comment on the individual merits of the actual applicant here?

Philip Corwin: I do believe that - and I'd be glad to do something on this in terms of preparing a draft that we should state that the BC's prior concerns and objectives have not been addressed, which again is a policy issue separate from the qualification issue under the revised proposal so.

Steve DelBianco: Because the applicant is affiliated with a BC member as many of you know. So, Phil, I would say that it falls back on you to see if you can work with me to draft the elements of the solicitation that have not addressed prior BC concerns about process. And if that's a slam dunk it'll be a very quick matter for the BC...

Philip Corwin: Yes, Yes, I'd be happy to work with you, Steve, and we can pursue that offline after the call.

Steve DelBianco: Any other comments on that? Okay thanks, Phil. Elisa.

Elisa Cooper: Thanks, Phil. Thanks, Steve. The last item on our agenda was to discuss the Beijing meeting and topics for our agenda. And I'll mention that first of all thank you so much for those of you who have responded to the survey that I sent. My plan is actually to host a separate meeting and to send out all of the responses to the survey.

I will send them out raw so you can see exactly how people responded and I'll do a little bit of analysis as well. But in the survey I did ask questions about what kinds of topics you'd like on the agenda.

And I'll kind of recap what people have responded with so far and then just put it out there if we can have a quick open discussion about what you'd like to talk for those that are attending the meeting what you'd like to talk about.

So answers on the survey about what we would want on the agenda are new gTLDs, a topic on new member outreach, a topic on charter changes, talking about the issue that we just talked about which is the singular versus plural issue and generic words, also trying to understand DotBrands and understand what their perspectives are, new gTLDs, the registry agreement, the RAA and Whois and then also about the GNSO and rebalancing influence among all of the stakeholder groups.

That's what I've heard so far but I'd like to hear from others on this call what kinds of things you would like to discuss at our meeting in Beijing for those of you that are attending or planning to participate remotely. Ideas, I'd love to hear from you.

Marilyn Cade: Elisa, it's Marilyn. Could I also ask that we identify which items might - members might think are priorities for CSG discussion at the same time?

Elisa Cooper: That sounds good.

John Berard: Hey, Elisa, this is John.

Elisa Cooper: Yes.

John Berard: So as you may know I am the GNSO Council liaison to the ccNSO Council.

Elisa Cooper: Right.

John Berard: The Country Code Council. And there was a meeting this morning that I participated in. One of the things that was discussed was a presentation made by Fadi in the Far East - I think it was the person from Japan who reported this - in which he recommitted ICANN to distributing its executives on a global basis and specifically mentioned putting an executive in Singapore and another in Istanbul.

I don't know where that is, if that is, why that is. But it makes me think that if there is going to be this kind of distributed ICANN executive network that maybe as we think about our member outreach we should be doing what we can to make sure that at least in those ICANN executive nodes that we have some sphere of influence. It seems to make organizational and political sense to think that way.

And that, in fact, may affect some of the thinking that's going on - I assume that's going on with regard to the revision of the BC charter which I think is an important enterprise especially as the GNSO itself begins to be changed by the arrival of new gTLDs.

Elisa Cooper: Okay got it. I think those would be interesting topics. Other thoughts from others about what you'd like to cover and discuss at the Beijing meeting? And of course, you know, obviously if you don't or can't or not able to share right now or don't have your thoughts please just send an email to me and I can capture it that way as well.

Marilyn Cade: Elisa, it's Marilyn. I apologize, I should have mentioned that we are confirmed for a CSG discussion with two Board members on Sunday morning quite early, I think it's - I think it's at 8:00 am. And that is Bruce Tonkin and Bill Graham.

                   And maybe when we go through this list of items I know they had both indicated they had some ideas so I could forward those to the list. But I know single versus plural, the new gTLDs and issues related to closed versus generics those are items that I think are on their list but that's another item we should make sure we're preparing for. Again that will be a CSG interaction so we'll be needing to work with the other two constituencies.

Elisa Cooper: Thank you, Marilyn. Any thoughts from others about what you'd like to cover in the Beijing meeting in terms of...

Gabriella Szlak: This is Gabby.

Elisa Cooper: Yes.

Gabriella Szlak: Only if there's interest from the members as I will be there I just know from ICANN that I'm going to be there representing the Institute at the Latin American working group. So I will be happy to give you some kind of report in case there's interest from the members. Thank you.

Elisa Cooper: Great. Any other ideas from anyone else of things you'd like to cover or make sure that we discuss? All right well I would invite you to just contact me directly with ideas. Depending on, you know, how many newcomers are going to be attending the Beijing meeting I'm planning on inviting a couple of DotBrand applicants that I know are attending the meeting that are local to the region.

It may make sense to do a brief review of who the BC is and how we participate. But I'd like to hear from others if you think that might be a good idea.

Anjali Hansen: This is Anjali. I think it's a good idea. I know the brand owners, of which we're one, but I'm not necessarily part of this group that they're thinking of forming their own brand gTLD group.

Elisa Cooper: Right.

Anjali Hansen: And so you may want to discuss with them, you know, that topic.

Elisa Cooper: Okay. All right well we are at the top of the hour so with that I would like to thank everyone for joining today's call. And I really appreciate everyone's participation.

As I mentioned I'll be scheduling a follow up call to review the results of the survey that was sent out. If you have not responded yet to the survey I would encourage you to please take this opportunity.

I think everyone, especially on the Executive Committee, is interested in making sure that we hear you and that we're making the Business

Constituency a place that you're getting value from and that we're focusing on the things that you want to focus on.

So anyways look for Bennie to send to you an invitation to attend another meeting to discuss that. And I'll be coordinating what I've heard from the survey and also on today's call in terms of putting the agenda together for the Beijing meeting and I'll be very interested in making sure that we're focusing on the right things.

So thank you, again, to everyone for participating today. And I look forward to working with all of you and hearing from all of you soon. Thank you so much.

Chris Chaplow: Thanks, Elisa.

<div align="center">END</div>