

**ICANN**

**Moderator: Gisella Gruber-White  
May 22, 2013  
10:00 am CT**

Coordinator: Remind our participants this conference is being recorded. If you have any objections you may disconnect at this time. You may begin.

Benadetta Rossi: Thank you very much (Kelly). Good morning good afternoon and good evening. This is a BC member's call taking place on 22nd of May 2013.

On the call today we have Zahid Jamil, John Berard, Elisa Cooper, Fred Feldman, Philip Corwin, Ron Andruff, Steve DelBianco, (Angie Graves), and Andy Abrams.

We have apologies from Marilyn Cade, Ayesha Hassan, Janet O'Callaghan, J. Scott Evans, Amber Leavitt, (Gabriella Szlak) and Celia Lerman.

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

Elisa Cooper: Thanks Benadetta. Well thank you to everyone for joining today's call. I'd like to cover a few items first and then I'll sort of run through the agenda and

that I will turn it over to Steve. So actually Benadetta if you can advance the slides we can see the agenda?

John Berard: Hey Elisa this is John. Keep in mind that some of us are on (unintelligible) the computer screen. You have to be more...

Elisa Cooper: Yes.

John Berard: ...(unintelligible).

Yes. So before I go through the agenda there are just a few items that I would like to cover starting off with the election results.

As you probably all know by now there were no nominations unfortunately. But Chris Chaplow has very, very graciously agreed to stay on for an additional two months.

And I'm hopeful that after those two months we will be able to find someone that is interested in taking on the role of the finance and operations chair.

And I would invite anyone with interest or anyone on this call who knows of another member who might be interested to reach out and ask any questions that you might have about the position, what the requirements are because we desperately do need to fill that role.

And Chris already I think has, you know, gone well above what has been asked by agreeing to stay on for these additional months.

The second item that I'd like to cover is the fact that there is a call to participation by the GNSO council for a drafting team to develop a charter for working groups.

And so to be clear they're looking for people to join a team to draft a charter that will drive a working group that is focused on the issues around policy versus implementation.

And my understanding is this whole issue around policy versus implementation is really starting to heat up and hopefully - at the council level.

And so John when you speak about your activities on the council it would be great if you're able to kind of cover what some of those issues related to policy versus implementation at the council level are.

The third item that I'd like to tell you about is the fact that thanks to Zahid I was put in touch with Avri Doria who is participating from our house on the ATRT which is the Accountability Transparency Review Team.

And she has offered to provide us with an update on progress and also to solicit our input. And I'm looking to try to schedule a meeting maybe sometime next week so that those people that are interested in this particular topic have an opportunity to hear from Avri what is going on and also to share any views with her.

And so hopefully she hasn't gotten back to me yet but I'm hopeful that I'm able to schedule that for next week.

And then finally the Durban meeting is quickly approaching. We still have a number of meetings scheduled before our meeting in Durban but I would like to ask the members to start thinking about topics that you would like to discuss at the meeting in Durban.

I know for one I would like for us to spend some time discussing outreach and also the charter amendments but I'm sure that there are many other areas the members would like to cover as well.

So that is actually everything that I would like to cover today. We - I have left a fair amount of time for any other business.

So before I kind of go through the agenda I guess I'd like to open it up to members and ask if there are any other items or issues that anyone would like to take on during this call?

Woman: Elisa can you hear me?

Elisa Cooper: Yes.

Woman: Oh okay. Because she said it was listen mode only.

Elisa Cooper: Okay why don't...

Woman: When I...

Elisa Cooper: Okay yes, no...

Woman: So you can hear me? Okay I think that was a mistake.

Elisa Cooper: Yes.

Woman: I can barely hear you though.

Elisa Cooper: Okay. I will be sure to speak a little bit louder.

So in today's agenda up next we'll hear a policy update from Steve and then a council update. Both John and Zahid are on the call so definitely interested in hearing what is going on at the council level.

It seems as though Marilyn will not be joining us. And I'm not sure if Chris has joined the call.

Chris Chaplow: Yes joined late, sorry Elise.

Elisa Cooper: Oh no worries at all. Chris will go through an update on the ICANN budget. And then if there are any other items that anyone wants to discuss we definitely have some time to do that so with that over to you Steve.

Steve DelBianco: Thanks Elisa. Hey Chris you joined late so you missed the praise and gratitude of all your peers for serving for an extra few months as finance and administration. Thanks for that.

Chris Chaplow: Thanks Steve. I'll listen to the recording. Thanks.

Steve DelBianco: All right so Elisa has allocated 20. And 20 minutes isn't enough to do the detailed run through on the RAA and GAC advice but it is enough high level, a high level review of that plus three other items that are on sort of the policy calendar that I wanted to highlight.

The first is that we have public comments coming up for the Accountability and Transparency Review Team. We always abbreviate it as ATRT for the affirmation of commitments and this actually is the second round.

They did it three years ago came up with some very bold recommendations about the role of the GAC and how they interact with the board and how ICANN is accountable.

And some of those recommendations were followed and some weren't. And the ATRT team is soliciting answers to questions right now and the BC has long considered this vital.

One of the key questions is what's the role of the GAC and the GAC advice? You can see how important that is. There's the question of how do they define public interest which is showing up more and more as a metric for ICANN.

We think comment periods ought to be longer and finally the notion of policy versus implementation which is a process issue of transparency.

So the BC has vital interest in the ATRT. We don't have anybody that's been nominated to that team. And again that's a team set by the board and the GAC. But we'll have an opportunity to do input if we can get our act together by June 9.

On earlier calls almost three weeks ago Marilyn had volunteered to take a stab at this but I don't think she's been able to get to it. Who can I ask on the BC that's interested in helping us just to fashion a very brief comment on Accountability and Transparency Review Team?

We're helping to set the agenda for what that team will look at over the next year. I'll take a cue on that.

There are 17 comments filed so far and ironically most of them said we need more time, we need more time. So they did extend it to June 9.

Elisa Cooper: Steve I see Stephan raised his hand.

Steve DelBianco: Go ahead Stephan.

Stephane Van Gelder: Yes hi. Hi everyone. I hope you can hear me properly. This is Stephane Van Gelder. Steve just a question before I either volunteer or don't. Are you looking at notions of more generic notions of the way ICANN selects its volunteers?

I noticed your comments which struck home on the fact that we don't have representation on the ATRT.

Obviously I'm a new member so I don't know if we volunteered if anyone was put forward for that or not from the BC.

But certainly it's something that has caught my attention in recent times is that ICANN seems to be setting a bar that just gets constantly higher for inclusion in volunteer groups, key volunteer groups such as this one.

And I seem to remember a time when it used to be the other way around. You know, ICANN would call for volunteers and be very open to getting as much representation as it can.

Now it seems there's a process of proactive selection of volunteers which means ICANN is putting itself in a position to decide who gets to represent what and who gets to speak at these things.

So to me it's not really one voice for everyone. It's not really the same model. I don't know if that's something you want to encompass in your work here. If it is I'd be much interested in participating.

Steve DelBianco: Thanks Stephane. I'm going to find a way to take that volunteering of yours and fit it in. But to be honest with you the composition of this team is dictated by the aspiration of commitments.

It's specifically delineates how many representatives from GNSO, ccNSO, et cetera. And it specifically says how they're approved by the GAC chair and ICANN's board share and board CEO.

So this particular team isn't really one where we can say much about how its members are selected. It's the CSG. We ended up picking somebody to put forth.

So I love your general point on hold volunteers are...

Stephane Van Gelder: Can I just...

Steve DelBianco: ...general which we can fit into our comments on this Stephane.

Stephane Van Gelder: Yes. That's absolutely right. You've understood exactly where I'm coming from which is why I was saying that it was a slightly different topic.



The ATRT is the worst example of this because of what you've just said but the trend in general is still there.

All right then. Thank you. I'll take that as a volunteer and it may end up being just you, Marilyn and I on this one. But we need to pick off six or seven topics.

It's a very brief comment and ideally we circulate something to our membership early next week. I'll follow-up with you and Marilyn. Anyone else?

Zahid Jamil: Steve this is Zahid, Steve. Can you hear me?

Steve DelBianco: Go ahead Zahid.

Zahid Jamil: Yes I just want to say I was having word with Avri about this about this and apparently there's a questionnaire that the ATRT sent out.

And apparently the question or the deadline was sort of gee I think it was the 19th something. But they are still willing to have individual companies or even constituencies sort of fill out the questionnaire and send it to them. And there are specific questions that they have asked sort of like a survey, a questionnaire.

And I'm guessing it's the same thing we're talking about right now.

Steve DelBianco: It's related. It's related Zahid because in addition to the questionnaire they actually put together a document several pages long -- and we discussed this in Beijing -- where they are inviting input from folks like the BC on topics they should consider as they do their review.

And so we don't want to be constrained by the survey, the automated survey they put together which looks more at what happened since the last review.

I think we want to look forward. And that deadline has been officially extended to June the 9th. So we do have time to officially comment on things like the GACs role, public interest, comment period, length, policy implementation and how volunteers are selected.

Zahid would you like to work with Stephane, Marilyn and I on that?

Zahid Jamil: I'd be happy to. Thank you.

Steve DelBianco: You're the best. All right moving to the next one, the proposed final RAA a huge thanks to (Angelie Hansen) who undertook her first rapporteur, you know, drafting role for the BC. And this is on the RAA comments -- did a fine job.

And Elisa Cooper was also able to weigh in. There's a comment in there provided by Zahid, by Bill Smith, Ron Andruff, and Susan Kawaguchi.

That was circulated to all of you on May the 14th. And of course this was pursuant to the fact that we had a full conference call on this on the May 2.

At this point we are very close to final. I had proposed that we finish this by May the 28 which is next week. That gives us a full 14 period so we can get it in before the comment period closes.

You have all received comments that Elisa Cooper circulated just the other day. And Elisa I was anxious to hear what (Angelie) who's on the call is

willing to accept the edits that you made Elisa. Then we would be pretty close to finished right now.

I would turn the queue over to (Angelie) and Elisa for a moment.

(Angelie Hansen): Hi Steve and everybody. Elisa I just had a - does everybody have the redline version I'm assuming that Elisa circulated?

Steve DelBianco: Yes. They all received it.

(Angelie Hansen): Okay so I'm looking at that right now. And the one question I just have I raise - Elisa you struck the question that I had raised which is registrars currently - the way it's written they're not required to sign on to any new RAA that may be developed just as this one was developed to replace the 2009 RAA.

If you're - if you sign on to this one then if there's a new one that comes on board they're not required to sign on to the new one, rather they can stay with this current one if they're in good standing.

Is that a concern for anyone or am I not reading it right?

Steve DelBianco: No I think you are but there's a parallel process in that the new RAA does allow ICANN to impose unilateral amendments not necessarily in a slam-dunk way. But there are ways they can amend the RAA. But I'll defer to Elisa to give an answer on that.

Elisa Cooper: Yes. So that was actually not my understanding. My understanding was that any changes would have to go through that whole process that's outlined.

But if your understanding is that they don't have to - yes so to answer your question yes I do think that's an issue.

(Angelie Hansen): So maybe we just need to have them clarify that because that may be their intent but there was that one provision in there in the RAA -- and I'll have to dig it up -- which was not clear on that regard.

So I agree that there is a way to amend the RAA and that goes to the whole vetting process.

Steve DelBianco: Right.

(Angelie Hansen): And then they are mandatory if they just amend the current RAA. But if they go out and negotiate a new one that's not clear whether they can do that I guess is what I'm trying to say.

Elisa Cooper: Yes. No I...

Steve DelBianco: Yes I think you're right. If they did a brand new RAA there would be no way to force everyone to sign it.

So I think that we should do is take a few minutes, we won't do it on this call but if Elisa you could help with this and maybe even Stephane focus on the brand-new RAA and what was called unilateral amendment isn't really unilateral in a strict sense. It is quite a few safeguards in it but ultimately the board gets to decide.

And so in that regard let's see if that addresses (Angelie)'s point that there is a way the ICANN can amend the new RAA, 2013 RAA hopefully with bilateral

agreement. But failing bilateral agreement it strikes me that ICANN can ultimately force the registrars who signed this to live by new rules.

(And that), Elisa your hand's still up?

Elisa Cooper: Yes. I was just wanted to publicly thank (Angelie) for taking this on because it was a huge undertaking and I really - everyone I'm sure really appreciates this. And I myself sincerely appreciate all the work so thank you so much.

(Angelie Hansen): Sure. It forced me to really learn it so that was...

Elisa Cooper: Yes.

(Angelie Hansen): ...good for me too.

Elisa Cooper: Yes.

(Angelie Hansen): I highly recommend that everyone sign onto these projects because you will learn a lot.

Elisa Cooper: Well thank you.

Steve DelBianco: Thanks Elisa. (Angelie) and Elisa did you want to comment any more on this notion of amending the RAA or we can just move on?

(Angelie Hansen): Why don't we work on it Elisa and then we can come back with another update.

Elisa Cooper: Yes. There was one thing I did kind of want to mention to members and there was - Bill Smith felt strongly that if the RAA was to be renegotiated that

stakeholders from, you know, across ICANN should be allowed to participate in that negotiation.

That wasn't my viewpoint but I adopted his viewpoint. And so, you know, right now it says that basically everyone should have a seat at the table even though that wasn't what I felt. But that's what I amended it to be because...

Steve DelBianco: Appreciate it. And it has two threads to it Elisa. It says that any proposed amendments or negotiations would be subject to multi-stakeholder representation and public comment.

Now we know we'll get public comment but it's great to ask for that. As far as multi-stakeholder representation and negotiation ICANN's position thus far has been no but it's probably appropriate reflecting the majority of the BC members to suggest that we would request we have representation at negotiation.

But thank you for making that concession. So Ron go ahead. Ron Andruff you're in the queue.

Ron Andruff: Thank you Steve. And thanks (Angelie) and all who did the good work. I found the document and I was just looking at it now and talking about it.

And Steve I just want to sort of pick up on what you were saying is that the fact that it's the multi-stakeholder situation in so much as the registrars and registries really are serving the user's interest at the very end.

So we should have that public comment and so forth. Multi-stakeholder representation I think is very important.

So I'm just wondering about the where, you know, we open that paragraph by saying the BC is concerned that the working group will be exclusive and that the BC believes that these things should happen.

If we could strengthen that language a little bit it was more than a concern. You know, the - they're a working group that is exclusive to one part of the community and others just have to look and watch from the outside and maybe they were not even sure how that's going to work, that's wrong.

So if we could strengthen the fact that, you know, we're more than concerned that the working group is as it's being proposed is going to be exclusive and not allow stakeholder input that's one point.

And the second one of course is then to that we, you know, in fact we- this multi-stakeholder representation is an absolute. We have to have that in order to maintain the ICANN model.

I think that those two elements if we could strengthen those two then I would very much support all the other work that's gone into this document. Thank you.

Steve DelBianco: Great. Thank you Ron. (Unintelligible) RAA so again thanks (Angelie) and Elisa. Next topic is the BC's draft comments on the GAC safeguard advice that came out of the Beijing communique.

We had three long calls to discuss this draft. I tried my best to piece together what everybody's input was and circulated a draft last Wednesday the 15th of May.

These comments are due by the 4th of June. But we are endeavoring to get our 14 day review period concluded by next week 29 May.

There have been several members who have circulated marked up versions of the comment. We do not have time in this agenda to go through the detail.

But as your policy coordinator I was going to raise where there are significant questions of the BC position and see if there's an opportunity for a very brief discussion.

Elisa let me do a time check with you and (Benny). What's the time available on this topic right now?

Elisa Cooper: Well since Marilyn is not here and we didn't have any other business to cover I think we have a good 15 additional minutes for you.

Steve DelBianco: Great. I will endeavor you to get it done before then. So Elisa you, Marilyn, Sarah Deutsch and Stephane all provided markups to a draft that already included text from several of us that have worked together on this.

And there have been others who've circulated a list. With respect to the GAC advice I would cut it into three chunks.

One chunk is what are called safeguards for all new (DLD)s. The second chunk would be just those with sort of restrictive registration policies associated with, you know, consumer protection and regulated industries.

And the third is exclusive or closed generics and whether - how the public interest tests would be administered for them.



So in general the good news is that on the first topic we're pretty close at coming up with BC consensus position on the safeguards for all new gTLDs.

These were six very specific safeguards about mitigating abuse and doing security checks. And the best the BC can say is that we generally but not totally support those six because the BC has noted that some of the safeguards are already handled by registrars who are the ones with the relationship of the registrant. So it isn't really appropriate to impose those same checks and validations on registries as well.

The second thing we noted is that accreditation procedures themselves may not be something that ICANN's responsible for but instead are incorporated by the applicant as part of their public interest commitment specification.

So this part of the draft got some searchable edits from Marilyn. And then Marilyn asked this general question on applicable law.

So let me clarify something. I propose that we ask ICANN legal because again we're not addressing this document to the GAC. We're addressing it to the board new gTLD committee.

And we've said to them -- this was my draft language -- you turn around and ask ICANN legal to put some meat on the bones of what the word applicable laws mean.

That doesn't mean to research every applicable law in every applicable country. It's simply to say that for the purposes of implementing GAC safeguard advice we want ICANN legal to take a position on whether applicable law is just where the registrant's based, is it where the registries

based, where the registrar was or where the user is based when they're using a Web site.

The key there is to get a definition on the general contours of applicable law, not the specifics. And it's clear Marilyn misunderstood that one in much of the comments that she put in on Page 4.

And before I leave that topic let me take a cue on that to see what the general view is on whether we should ask ICANN to comment on applicable law in the way that I drafted. I see Stephane in the queue.

Elisa Cooper: And Sarah raising her hand.

Steve DelBianco: Go ahead Stephane.

I'm not hearing Stephane. Go ahead to Sarah.

Sarah Deutsch: I think in theory it sounds like a good idea. But as someone who has actually researched the issue you're talking about I don't think ICANN do much other than perhaps flag various laws people need to know about the issue of what jurisdiction applies is extremely thorny.

So in the US you have to take clear and purposeful steps to avail yourself of the jurisdiction. And there's even a splitting case law on whether having passive Web site. You know, many cases they say that's not sufficient and others they would say yes if you have customers and arrangements.

And then there are countries in Europe who have found that, you know, just having a server in their country is enough to have jurisdiction.

So, you know, I don't mind ICANN of course doing more work but I want to make sure what we're asking them to do is realistic.

And most corporations today I mean in every contract we're required and our vendors are required to comply with applicable law. And the kind of burden shifts to you to figure out what that is although I do think since we have so many new businesses that are of concern inside ICANN, ICANN could do duty by flushing out to them what some of the applicable laws are that they should be researching.

Steve DelBianco: That's helpful Sarah. I think you're right. To manage expectations ICANN legal may not be able to answer this. But I sense that your supporting my idea that it would be helpful if they could.

And it's especially helpful to brand-new registrants, brand-new Internet users the governments that are just gradually having their populations get on the Web.

So again it's just an ask. It's not the BC taking anything other than a request that ICANN legal clarify what applicable law means.

And I think next in the queue Stephane are you back?

Stephane Van Gelder: Yes I am thanks. Sorry I was coming off mute. Can you hear me?

Steve DelBianco: Yes. Go ahead.

Stephane Van Gelder: Good. Just nothing much to add to what's been said already, just wanted to ask an additional point. You mentioned the wording about the fact that the BC generally agrees.

In the draft, you know, there's that word generally which I actually wanted to get clarification on. Can we be more specific? What do we mean when we say generally? Do we mean - I mean do we have any way of being more specific? I'm just mindful of the fact that...

Steve DelBianco: All right let me try to answer that. To me you can't - you have to say something in front of the word supports. Because if you simply say the BC supports the six safeguards one could stop reading there and think that we did.

But that is not the position the BC took on our three calls. We had concerns about the terms of service update. We had concerns about registrars already having this responsibility and therefore registries should not.

So I think that we needed to put some qualifier in front of the word supports that encourages the reader to read on and understand that we had a specific questions for further clarification and we wanted to note that our support is not full and unqualified but it's more specific than that. And that's why that's the purpose of the rest of the text on Page 3.

I mean I'm happy to have an - a word other than generally but the point is to qualify the support and not make it unqualified. Is that all right Stephane?

Stephane Van Gelder: Yes thanks Steve.

Steve DelBianco: Great, Ron Andruff.

Ron Andruff: Thank you Steve. With respect I think that sending the message to the staff that we're looking for them to define applicable law is a fool's errand.

I support what Sarah said. She spent a lifetime fighting this - these issues and looking at applicable law all over the world.

Staff will - can go off and try to find a solution for us in terms of the definition but the end result is going to be that you can't apply it to all new TLDs because each one will be so different.

So I would push back on asking staff to go off and create a definition. It really is in the hands of the new registries.

They have to know which market they're dealing in, what are those applicable laws in those markets and work towards them.

If you look at any corporation in the world when they move into a new territory they just don't move into that territory blind. They do their homework and they know exactly what they have to deal with.

So it may be burdensome to the registry in certain circumstances. But for the most part I don't think that's going to be the case and I - that's exactly why I'm saying that burden rests on the shoulders of the registries not on the staff try to define something because one size will never fit all. Thank you.

Steve DelBianco: (Andrew Mack)?

(Andrew Mack): Thanks Steve. Ron I'm listening to what you say and I think some of that makes good sense but I'm not sure that it disagrees completely with what Steve said.

I'm a little bit concerned that for all the reasons that you mentioned there are going to be a lot of people coming in who are new. There are a lot of questions about applicable law.

Even if it's just trying to narrow the field and clarify what questions people should be asking doesn't that provide something useful to the user community?

Doesn't that goes some ways towards avoiding consumer confusion and things like that? I think it might. And I - although you may be right it could be a fool's errand I'm not sure if it's an errand we should ask for anyway.

((Crosstalk))

Steve DelBianco: Move along - move things along. I'd really like to get a raise of hands of those who think it's worth asking versus those who say do not ask, do not even asked ICANN to clarify?

So use the Adobe if you would please. Give me a hands up if you do think we should ask and a hands down if you think we should not? Take a minute to do that if you can just click in the Adobe. If those of you who are not on Adobe would you please just signal verbally and give your name?

Some of you are putting your hand up as opposed to checking the Yes button. I'll take a hand up as a yes.

It's six to four yeses over no's from what I can see online now. So that would indicate we will go ahead and ask this question without any ridiculous expectation of whether the board would ask staff to do so or an expectation

that staffs answer would be helpful. I do think it's good for the BC to be on record.

All right one other point Phil Corwin in Maryland...

Ron Andruff: I'm sorry Steve I beg your pardon Steve. It's - this is Ron I'm sorry. I had my hand up but with all those checks and so forth if I may just take a minute.

Steve DelBianco: Half a minute Ron. We've got to move on please.

Ron Andruff: Thank you. So I just, you know, a six four vote on this matter I think - look just put it out to the list. Let the entire - let the entire list give them 48 hours to check in. If they ignore it that's fine but let's have a broader vote six to four is to close.

Steve DelBianco: That already happened on May 15 circulated the draft. This was in the draft and thus far two of you have come back in writing to say you didn't think we should ask and on the phone two more agreed with you.

So it has already been put to the list but I'm happy to emphasize it in the email we circulate with a new draft. And I'll do that.

Sarah Deutsch: And...

Ron Andruff: Thank you.

Sarah Deutsch: ...Steve can I just say one thing quick?

Steve DelBianco: Yes go ahead Sarah.

Sarah Deutsch: I would just say that I don't mind asking the staff to help clarify give some illustrative examples of applicable laws that people should be concerned about but again to define it it can't be defined.

It's that, you know, and you don't want private companies relying on ICANN's, you know, legal department.

I don't think they're skilled enough to do it anyway. So every company needs to do it on their own and it's just a huge endeavor.

Steve DelBianco: Yes. And I think Marilyn and you agreed totally on this because she suggested an edit up saying that applicable laws is an undefined term that may benefit from better understanding and ultimately the responsibilities of stakeholders. So it isn't to define anymore. I think the word defined is gone.

All right. That there ought to be some safeguards before you suspend the domain name due to security.

And I noted it in the draft that the BC is asking for ICANN to develop standard procedures to suspend domain names due to security check, safeguards, or safeguards six on consequences.

I wrote that in. And Marilyn disagreed that we should do that. I wanted to get a quick queue on whether we should have standard procedures for domain name suspension or leave it up to every registry. I'll take a queue on that.

So I can't tell for sure if hands are up from the queue or from the voting but (Angie) your hand is up. Go ahead.

(Angie Graves): My apologies. I meant to clear that.



Steve DelBianco: Great. So Corwin please.

Ron Andruff: Yes Steve, you know, this issue of domain name suspension or blocking but basically it's taking away people's ability to use their domain.

With the heart of the PIPA SOPA controversy last year I think there's got to be - I think a registry just doing it on their own volition without responding to whether it's a court order, or a, you know, a notification from the police agency of ongoing harm, or URS which suspends domains but isn't adjudicative.

There's got to be some procedure that the registry is responding to. I think this business of registries deciding on their own and having differing standards for when a domain is suspended and without any defined process for how the registrant can respond to that and restore their ability to engage in business engage in speech and all the other things that people vital activity that people through to domains is just raises very serious due process issues.

Steve DelBianco: Got it Ron. And all I put in the draft was the BC recommends that ICANN develop standard procedures for suspension of domain names that would be called for under safeguard three or safeguard six.

And that was the goal there to ensure that registries that suspended a domain name would act consistently under whatever is determined to be applicable law.

So we have one BC member Marilyn who didn't like that but given that no one else has replied we will keep that in the draft unless there's others who respond.

Okay let's move to the next category. The next category was consumer protection in sensitive strings.

It looks like we're very close on that Ron Andruff provided I think some much needed clarity and that was helpful on that.

And I think we're close. It was one issue I brought up which was - no I think this ones done. So let me move to safeguards six, seven and eight pertaining to strings with restricted registration.

On this one Ron Andruff provided extensive text. And Stephane I know you came in thinking you disagreed with Ron but all you struck was the very first sentence and therefore the rest of that looks like it held up.

There are a few edits from Marilyn, and Elisa, and Sarah but it looks as if all of the text on six, seven, and eight including an industry self-regulatory body are going to hold up unless any other BC member has a question on six, seven, and eight I will quickly close with the discussion of closed exclusives.

Any queue on six, seven, and eight? Okay fantastic.

The last part of the GAC advice is that the GAC said to the board that any string representing a generic term with an exclusive registry access should serve a public interest goal.

Back in March as I noted in the draft back in March the BC took a look at the status quo then and the public comment on whether there should be brand new categories for closed generics. The BC said no. There shouldn't be categories.

The BC took a straw poll on whether we should pick anything goes, apply the code of conduct, or .brands only. There was not significant support for any of those.

So the BC took no position in March. That means the BC has no position. It doesn't have a prior position on closed generics.

We had commented and communities. We've commented on the need for the code of conduct but we don't have a prior position.

This isn't - I'm fulfilling my responsibility of articulating what could be the BC position. Emmett O'Keefe, Elisa, yourself, Sarah came in suggesting for very different reasons that we not make this point to ICANN.

That the code of conduct already anticipates a lot of what the GAC wanted and there are ways Sarah for instance you objected to the notion of many closed generics.

I would've thought that this process of doing those objections through a public comment on public interest would exactly satisfy your concerns.

So I would first turn to you Sarah about why it would not be better to have a process under the code of conduct as opposed to being silent? And we'll take a queue. Sarah would like to start?

Sarah Deutsch: Yes I guess the devil would be in the details right? So if it, you know, we don't get into those specifics but it would have to go beyond an exemption to register domain names 100 domain names for yourself you would have to show why - what steps you're taking to allow competitors, affiliates, partners,

other consumers into that new TLD similar to I think what Australia had proposed.

But again the devil's in the details. And I don't know since we haven't taken a prior position...

Steve DelBianco: So Sarah let me point out that we weren't in this one articulating what those details are. The ask of ICANN was twofold.

We asked them to develop the process for how a registry would seek the exemption. So we're put in the onus on ICANN to come back like they should and staff would suggest what the process is including the public comment period and GAC participation.

And we also said that they should develop criteria for registries that want it. So the devil knows the details. What all happened if ICANN took our requests at developing a processing and criteria that's where the details would live.

So at this point...

Sarah Deutsch: Yes but I don't - I think that's a risky proposition. For those of us who have concerns we do have criteria's.

And so you'd have to link the criteria together, you know, it would have to be opened in a way that takes away those concerns.

And just saying to ICANN come up with criteria and we're going to give people exemptions then we'd wait and hope that they do it the right way but they may not.

Steve DelBianco: But the criteria they would define we have asked for that that criteria also be posted for public comment and public input because I fail to understand how we benefit your position by simply being silent. I...

Sarah Deutsch: Well if we can put a little meat on the bones then that would be helpful. I'm not, you know, closed minded about the idea of asking them to do something but without any kind of need I think it's a dangerous position.

Steve DelBianco: And is it less - is it more dangerous than saying nothing in which case ICANN...

Sarah Deutsch: But why can't we say more? Why are we only given those two choices?

Steve DelBianco: You're free to suggest another one but we're running out of comment period time here. At this point we - what I proposed was up for consideration. You would prefer to say nothing. Emmitt O'Keefe from Amazon...

Sarah Deutsch: No I wouldn't prefer to say nothing. I would prefer to actually say that we have concerns about some of the closed generics altogether but in the interest of keeping with the BC's position I think it would be more consistent to say nothing.

If we do say something then I think we should look at what Australia wrote and maybe build on that. It's that...

Steve DelBianco: Okay...

Sarah Deutsch: ...you know, that there should be, you know, an avoidance of unintended consequences.

And then they urged specific transparent criteria for third party access that should be appropriate for the type of risks associated with the TLD should not set anti-competitive or discriminatory conditions relating to access by third parties. So that...

Steve DelBianco: So Sarah that language and if you want to propose that language you'll be editing the second to last paragraph of the section.

You would be suggesting that it should be done through the code of conduct exemption and that you would be recommending that the BC have a couple of very specific criteria that make their way into the process.

Sarah Deutsch: Exactly. Yes that's right.

Steve DelBianco: I invite you to propose that as an edit as opposed to a strikethrough to that section if that section survives.

Sarah Deutsch: Okay. I'll try.

Steve DelBianco: Thank you.

Sarah Deutsch: If others agree.

J. Scott Evans: This is J Scott Evans. I just (unintelligible) call so we've made comments that are along that line I believe I'll let (Laura) jump in here too.

(Laura): No I was just going to echo us too. So yes we're with Sarah on this one.

J. Scott Evans: We're with you Sarah 100%.

Steve DelBianco: And by with Sarah do you mean we want the code of conduct to have some meaty criteria in it or that we want to be silent on this? What do you mean by that?

J. Scott Evans: We want meaty criteria. We've put in what we thought and it's very along the lines of what Sarah just articulated.

So Sarah I'm happy to look at the language you want to submit because we're in - our management is in agreement with that.

Steve DelBianco: I would invite you guys to turn that around quickly. It would be on the second to last paragraph in the section on close generics.

So it would be great to see some meat in there. We can put the bullets in and highlight it for the members to review. Thank you.

Steve DelBianco: Ron Andruff and then Emmett.

Ron Andruff: Thank you Steve and thank you to Sarah and also J Scott for, you know, bringing that point across.

I think - I just want to support that it's a very risky proposition to ask the staff process on developing such a thing.

We have taken this position earlier from the BC and we cannot be silent. So I will also jump in to help edit that paragraph or throw some comments in there.

So I'll look forward to the lawyers taking their first kick at that cat and then I'll add something if there's something to be added. Thank you.

Ron Andruff: Thank you. Emmett?

Emmett O'Keefe: Yes this is Emmett. I'll just add myself to that list. Just where I'm coming from is I took the - I thought the way you articulated the position earlier was, you know, an accurate representation of what the BC's position was.

Not to say that there was no position but that, you know, in the open closed comment period, you know, you submitted comments or BC submitted comments and after the poll was taken and essentially there wasn't consensus around any specific positions.

So just number one I took that as a position. And that, you know, if we want to, you know, add, you know, put meat on the bones as I think the phrase was to have meaty criteria in this I mean I'm open very much open to having that discussion. Add me to that list.

But I mean I think it's, you know, depending and what's suggested, you know, it could be a significant change in position. And I think it warrants, you know, all separate discussion.

And that may, you know...

Steve DelBianco: Right and...

Emmett O'Keefe: ...could it happen in the next...

Steve DelBianco: ...(unintelligible) I'm the policy coordinator. I will take the view that if the BC on any topic has no position that that is not the same as taking a firm position.



And I will suggest that that leaves it open to consider a position especially when something dramatic has changed.

In this case two things changed. Number one ICANN changed the code of conduct. They took out the any purpose language elevating the importance of the code of conduct exemptions.

Number two the GAC has provided explicit advice pointing to the public interest which is ironically the very same word that's used in the code of conduct.

So those two changes would suggest that if I'm doing my job I'm putting that in front of the BC with an opportunity to provide comment and there is no prior position.

If the prior position is that there was no prior position I think we violently agree and that opens the door whether the BC wants to comment now. Anyone else in the queue?

Great I will look forward to Verizon and Yahoo adding a little meat to those bones and then we'll try to give broader input from the rest of the members on this.

And I think that's it for the comment on GAC advice and I'll turn things back over to the chair.

Elisa Cooper: Thanks Steve. I did want to ask you about the registry agreement and whether or not you thought we might want to prepare comments on that as well. And if so I'm happy to volunteer putting a draft together.

Man: (Brian)?

Steve DelBianco: Thank you Elisa. As all of you know the BC did comment on the last iteration of the registry agreement. And the current set of comments on the slightly tweaked registry agreement are due on 11 June.

So Elisa if you'd like to take charge of that we can start with what we wrote last time and really just focus on things that changed in the registry agreement. Is there anyone else would like to volunteer to help Elisa to pull it together?

I see a hand up from Ron Andruff.

Ron Andruff: Thank you Steve not to volunteer.

Steve DelBianco: Too late, too late.

Ron Andruff: Yes right. No it was more just a question I mean Elisa I - with all respect you're the -our chair but you're also a registrar.

You work for - in that space. So I would think we might have to recuse you from doing that unless I'm clear. I just wanted to make sure we handle this appropriately.

Elisa Cooper: Yes I mean we're not a registry. And I'll just say I advocate for things all over the place that are honestly not in the best interest of my company.

I'm - I thought it would be good for us to comment on that because it is another important document. And frankly the other constituencies are commenting on it so I thought it would be best for us to do that as well.

But if others feel strongly that we don't want to comment on this that's fine too. But I don't feel that I need to recuse myself because frankly I'm advocating on behalf of MarkMonitor's clients.

J. Scott Evans: So I apologize...

Man: Okay.

J. Scott Evans: ...I sort of faded out this is J Scott what comments are we talking about? I apologize.

Elisa Cooper: Comments on the registry agreement.

Steve DelBianco: And J Scott did file comments last time that were largely ignored by those who were negotiating the new registry agreement.

J. Scott Evans: Well that would be me. So I apologize for that.

Steve DelBianco: ICANN ignored them. Not you.

J. Scott Evans: (Unintelligible) filed comments and I would encourage us to file comments.

Elisa Cooper: I see Stephane.

Zahid Jamil: This is Zahid.

((Crosstalk))

Zahid Jamil: And I would also encourage filing a comment.

Steve DelBianco: I've got it Stephane. Your hands up and then Zahid.

Stephane Van Gelder: Yes thanks Steve. Just to Ron's comment about Elisa's professional background. I actually think it's a good thing.

I - let me say two things. I think first of all if we're going to comment on topics such as these it's always good to have people preparing the draft and don't forget that's what Elisa volunteered to do is prepare the draft.

The draft will be agreed by the BC as a whole and probably through a process like we've just gone through with the GAC advice draft.

So I think it's always good to have that experience. I don't think we should feel too sensitive about having that experience especially when it's, you know, coming from people that might have understanding of the industry that are not registries themselves so not really - don't really see a problem there. I see it as a positive.

I think we should take any goodwill that we can here. And anyone that's willing to start that work we should certainly welcome them with open hands and open arms.

Steve DelBianco: Thank you Stephane. I would tend to agree with that. And Ron will have every opportunity to analyze the substance of what our rapporteur comes back with and that's an opportunity to say what the BC's ought to be saying. So it makes it sort of irrelevant to road it. Anyone else...

Ron Andruff: No Steve I appreciate it. I just wanted to make sure that we're clear of these things. And I would - there's no personal attack there. And I actually misunderstood the beginning. I actually heard registrar.

So the whole thing was...

Steve DelBianco: Okay.

Ron Andruff: ...a moot point. No but I appreciate Elisa picking up the pen for it. I know what that means. Thank you.

Steve DelBianco: Thank you Ron. Zahid? Zahid are you there?

Elisa Cooper: I think he was just support of us writing the comments.

Steve DelBianco: Thank you Elisa. Appreciate that volunteering. Back to you.

Elisa Cooper: Yes so why don't we move ahead. We have Chris If - he wanted to -- not he wanted to -- Chris volunteered to cover an update on ICANN draft budget. Chris?

Chris Chaplow: Okay thanks Elisa. I'll just run through this very quickly. The FY '14 draft budget was published a few days early on 10 May.

Comments for this closed on 31 May. And the apply round on the 22 - 21st of June ahead of the special board meeting to approve the budget on the 28th because of course FY '14 starts on 1 July.

This year is actually been very different from previous years mainly because the new CEOs implemented a completely new project management system called (unintelligible).

So the finance staff has been busy getting everything configured and importing data. So as a result there's been no framework budget in February that we normally have.

So the information in the budget that's just been draft budget has just been released. It's actually new information.

A couple of things that some high level points that might be of interest to the BC members I think. FY '13 the current year the revenue forecast now it's \$76 million the general revenue forecast slightly down on the budget estimates of \$78 million plus \$174 million for the new gTLDs.

FY '14 next year the general revenue is going up to \$88 million. And that's not because transaction volumes.

Transaction volumes are estimated to be about 1% down. But this is due to well to 2-1/2 million in the .com contract that's changed for meetings for sponsorships.

And new gTLD domain sales -- that's not applicant money that's sales of domains -- \$7 million. So it's sort of an additional \$7 million that's not in previous years plus of course in FY '14 gTLD applications and \$98 million.

On the expenses side FY '13 the current year we had a budget of \$74 million and expenses - the expense forecast is \$68 million so we're down from \$74 million to \$68 million which is similar pattern to what happened the year before.

So really what we're seeing is a budget that's projecting an increase and then I guess the activity isn't happening so the actual expenditure is down on the budget.

So the FY '14 expenditure is up to \$84 million. So just to recap this for the headline numbers FY '13 budget was \$74 million.

The actual forecast is only going to be \$68 million but FY '14 is predicting \$84 million. So it's a general expenditure not the gTLD expenditure.

J. Scott Evans: Chris this is...

Chris Chaplow: Yes.

J. Scott Evans: ...J Scott Evans. Is all of that change in revenue it's actually just changing the pile it falls into when you talk about a pile of the year.

Is that due because they were counting on fees coming in from new gTLDs that they're not receiving within this year and are going to be receiving next year?

Chris Chaplow: The application income from the gTLD if we mean that that seems...

J. Scott Evans: (Unintelligible) registration income.

Chris Chaplow: FY '14 is the first year that there's ever been any registration income. So FY '13 it was never there.

J. Scott Evans: Okay.

Chris Chaplow: And FY '14 is \$8 million a...

J. Scott Evans: Right.

Chris Chaplow: ...year. That's a new income if you like that's - that we've got.

Staff levels I think that's instructive. Last year this time last year I was reporting staff levels in the budget change from 149 to 108 full time - I'm sorry 118 up from 149 to 189 full time equivalents.

The FY '13 forecast for this year is an average of 179 staff with reaching an end of year 233. The FY '14 budget average is 259 with an end of year 284.

So there's significant increases forecast in the budget if - there's a graph that looks like Mount Everest as it climbs.

But we do see looking at the numbers that ICANN aren't able to fill those staff members. So there's a lag from what the budget forecasts to what's there in reality.

That's the end of my high level. Just to drop down right back down to the low level in the detail which we've - there's a big change which is going to make it very difficult for us to comment because where we used to talk about projects now we've got this new system.

And projects - and you can go to myICANN.org -- and I recommend everybody does and have a sort of click around.

Click on that Projects tab and you can see this sort of structure of projects of objectives, goals, portfolios, and programs.



And that's the drill down with ownership. And we've got the circles with green for on target and red if things are going not so well.

There's 160 programs altogether. And it's very prudent to match the programs against the old projects.

But these 160 programs do have four financial piece information against them personnel, travel, professional services and administration.

So there is more information in there but I think it's going to be more use to us next year to make comparisons.

You know, and if I look at something like compliance which was \$6 million last year this year it's broken down into 11 programs.

And ICANN total is up to \$3-1/2 million. So, you know, I think really probably if we can do some comments it's almost going to be questions, you know, we've got to go through 160 different programs.

And if we know what those are then that's fine and we can understand them but if we don't and don't know what they are we ask the question.

And our comment is going to be more about asking questions. So with that I'll finish there and just see if there are any questions from members?

Elisa Cooper: I see (Andrew) has his hand raised.

(Andrew): Chris I have a couple questions if I might. One of them is is that does this reflect the opening of the new regional hubs and the, you know, supposed decentralization of ICANN the organization?

And if so I would think it would be a lot more frankly because that's a major that sounds like a major change to me.

And the second thing is is that one of the big raps against this whole - the whole new gTLD program in the markets that we work on extensively has been about the lack of outreach and the lack of communication, you know, outside from a very, very, very superficial level.

Is there - were you able to see - is there more depth in that? Is there more focus on that because I think that is a risk for ICANN more broadly if it's perceived as not having addressed that issue?

Chris Chaplow: Thanks (Andrew). To the first question is yes I'm sure it is but I can't give you numbers we have to hunt through these the 160 and see what we can see what - identify those elements that you're talking about.

But in principle yes I think the - it's (unintelligible) office is that what we talk about the office or the regional vice presidents.

They are in there. So I'm drilling down (unintelligible) so it must be there. And again with outreach it's broken into a lot of different areas because each different, you know, the different areas of outreach there's probably about ten or 15 different items.

Again we'd have to have a look. Let me take this online. Let me send you an email with that and you can help us and have a look and see your own question and give us feedback I think. Thanks.

(Andrew): Sure happy to do so.

Elisa Cooper: So I guess we can take one final question from Ron because we're actually at time. And we do have another meeting scheduled for June 6 so we can definitely pick up some of these other topics at that time. But go ahead Ron.

Ron Andruff: Thank you Elisa. I just - I'm not sure if I heard correctly on compliance. Chris I wondered if you might speak about that again?

We've all spoken for years within the BC about our concerns about compliance being underfunded and understaffed.

I'm not sure if I heard the numbers clearly but from what I got it was \$6 million and now it's broken down into multiple projects but then I thought you heard you said \$3 million in total.

So I'm hoping that the numbers are reversed that in fact it doubled the amount of money for compliance but could you clarify that? Thank you.

Chris Chaplow: What you said is correct. Last year those compliance were \$6.1 million against it. And then this year we've got 11 programs meeting updates, monthly updates, other programs, complaint processing and monitoring activities, audit programming, contractual positive initiatives, new DSD, program readiness, outreach, improve compliance programs, annual reports and then I've totaled all those up it comes to \$3.5 million.

I think the numbers are wrong. I think it's the new system is still having teething troubles. But...

Ron Andruff: Well that's certainly something. It would be very helpful to get an answer to because that would be something I think the BC would want to would want to weigh in on.

I would leave it to our x.com to make that decision but it just seems to me that that's an issue that we just keep asking and they keep saying it's coming and we never see it.

And it's time that that number should be \$30 million with all the new TLD's coming out. So it's pretty silly that number you've just spoken about in my view. Thank you.

Chris Chaplow: I just took that as an example to check because I know it was of interest to the BC. So there could be others hidden there when we dig a bit deeper.

Elisa Cooper: I think we should probably - it's worthwhile taking this to the list to see if we want to file comments on the budget and then to ask some of those tough questions.

Chris Chaplow: Yes okay. Thanks...

Elisa Cooper: Okay that's it. We are actually at time. And I want to thank everyone for joining today's call. And as I mentioned earlier we do have our next call scheduled for June 6 which is a Thursday I believe.

So we obviously can continue these discussions then. And I would encourage people to go to the list and continue any of these conversations there.

So thank you everyone for joining today's call. And I'm sure we'll all be talking very soon. Thank you so much.

Man: Thank you.

Man: Thank you.

END