

ICANN

**Moderator: Gisella Gruber-White
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9:00 am CT**

Coordinator: Please go ahead. This afternoon's conference call is now being recorded.

Benedetta Rossi: Thank you very much (Tim). Good morning, good afternoon, good evening. This is the BC Pre-Council call taking place on the 8th of October 2012. On the call today we have Marilyn Cade, Frederick Feldman, Elisa Cooper, Steve DelBianco, Ron Andruff, Janet O'Callaghan, Angie Graves, Anjali Hansen, Aisha Hassan, (Jane Bundy), (Marie Catullo), Philip Corwin, Andrew Abrams, Jim Baskin, Mark Sloan, Gabriella Szlak and Chris Chaplow.

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

Marilyn Cade: Thank you. My introduction - it's Marilyn Cade speaking as the Chair. My introduction's going to be very short, because I want to get us to the policy council and policy discussions that Steve will be leading.

But there are a couple of things I just want to call your attention to. Our Secretariat just sent out a number of documents. We're not discussing them on

this call as I said earlier, but they are preparatory and background documents for all of you.

You should feel free to share them with anyone from your companies that are eligible to participate in the BC. Some of the information you can certainly share but the invitation to the GAC event and other social events that are BC hosted would be for you and others from your company that are eligible to participate in the BC.

Some of you have membership in other constituencies and I just mention that so we make sure that if you send everything - people - you're making the decision on who you send it to.

Social events that - again I'm just going to highlight for you so you're keeping track of those, because they are important for us in our networking with the Board and the GAC.

Social events include breakfast on Tuesday morning and also a social event on Tuesday night. And I need to correct something I said on our last call. The social event on Tuesday night with the Board is for the Non-Contracted Party House.

So this will be the three constituencies, the ISPs, IPC and BC and the NCUC and the NPOC. This is something new and I'm going to ask you to reserve judgment on whether this works or not.

There's a new effort on the part of the Staff to sort of force us all into a cohesive collaboration on the basis of the House, which is not something that has worked so well up to now.

But the Board reception will be with all of us and I just wanted to note that as an FYI, since I had misunderstood and thought we had a CSG discussion. I want to go to quick review of the calendar.

So Steve and the Councilors will be focusing on the policy council. We'll talk about some of the open public comment topics that are of significant priority to the BC.

We'll do a quick update on the discussions that I've had as the Chair with Fadi Chehade and with Kurt Pritz and with (Sally) on the objection period and the defensive registration mechanisms and take comments on that.

And then we'll be wrapping up with a very tight schedule. So let me turn us now to Steve who - and Steve thank you for the policy council and let me turn it to you.

Steve DelBianco: Morning everyone. I sent an email yesterday. It's titled The BC Policy Calendar. It's for use for today's call. Let's dive right in. Under Channel 1 this is the ICANN public comment process.

I'm going to highlight just three of them and see whether we have feedback from the members who are on the call or levels of interest to proceed. The first is Number 1.

This is the DSSA Working Group and they have a Phase I report that's out for comments due by 21st of October. To get you excited about it this is where they want to talk about threat scenarios to the DNS.

Folks like Bill Smith at PayPal I think would be helpful on this, but anyone else on the call have a level of interest in helping the BC to comment on these risk scenarios and threat scenarios?

Marilyn Cade: Sorry Steve, it's Marilyn. I see (Scott)'s not on yet but (Scott) is the designated BC representative. Did we maybe ask...?

Steve DelBianco: Yes. Well that's true. I'm anxious to see whether some other members have a level of interest. You're right about (Scott) for sure. Anyone else on the call have a level of interest? If not we can move on.

Marilyn Cade: Sorry. I just wanted to finish. (Scott) had let me know that he wanted to volunteer to work with others, and I didn't get a chance to mention that to you ahead of time so maybe we could add that in.

Steve DelBianco: Will do. Yes he mentioned it last week. I saw him at the event Wednesday. Great. Anyone else? Thanks. Let me jump to Number 3, which is the Trademark Clearinghouse rules, the proposed rules for doing the matching of names for Trademark Clearinghouse claim notice warnings, and for verifying that a trademark owner has proved they've used their trademark and managed to get into the Trademark Clearinghouse.

Underneath that I - underneath Number 4 I mistyped the conference call. That conference call under Number 4 on my agenda really goes to Number 3, because ICANN is hosting a call tomorrow morning at 9:00 am Eastern Time where a couple of authors of different alternate models for how to run the Trademark Clearinghouse will present their rationale.

And it's a - it's pretty, you know, relevant I think to Number 3 on these Clearinghouse rules because it has to do with models that implement the rules either in a centralized or decentralized way.

And the BC has been thus far really pushing for a highly centralized Trademark Clearinghouse where ICANN can be held accountable to run it or at least to manage tightly the vendor that runs it, as opposed to distributing copies of data out to all the different Registrars who have to run it.

I did want to highlight to all BC members that there are - of course exact matches/identical matches would be covered for a trademark claim notice. But all that's anticipated right now beyond exact match are four little variants.

The first is a space that's contained within a mark that might've been replaced by a hyphen or the space or a hyphen was omitted. That would still be considered a match for purposes of a trademark claim notice.

Another is special characters that are omitted like an at sign or an ampersand where they're spelled out A-T instead of the at symbol. C was punctuation or special characters that can't be used in a second level domain name.

They might be omitted and replaced by spaces or hyphens and that's about it. There's no plurals at all. If you have a plural, let's say PayPals instead of PayPal, that plural would not be considered an identical match nor would it invoke a Trademark Clearinghouse warning notice.

So there's a rather limited set of expansions beyond identical match, and it would be important for the BC to weigh in on our concerns. We have a lot of principles that we've already approved through membership voting, and

happy to take the queue on anyone interested in commenting on these rules for matching and verifying proof of use.

Elisa Cooper: Steve this is Elisa. I'd like to get in the queue.

Steve DelBianco: Great. Go ahead Elisa.

Elisa Cooper: I just want to say that I looked through the documents and it all looked very standard. So the rules that they've laid out for, you know, transliterating ampersands and the at sign and, you know, allowing for dashes between spaces and all that is like very standard and like what we've seen in the past, so it looks fine to me.

Steve DelBianco: Is it sufficient Elisa?

Elisa Cooper: Yes, for the purposes of transliterating, like transliterating those special characters and, you know, allowing for other languages to replace the special characters. Yes.

Frederick Feldman: I'd like to get in the queue.

Elisa Cooper: In my opinion.

Steve DelBianco: Thanks Elisa. And Fred did I hear you?

Frederick Feldman: Yes. I mean, in terms of, you know, specifically identifying the strings, yes it's sufficient. In terms of actually protecting a brand, no it's not sufficient.

Elisa Cooper: Yes but it's not about - yes, it's not about protecting the brand.

Frederick Feldman: I just want to make sure that we're on the record to say that in terms of the matching process after the fact when the Trademark Clearinghouse is in operation, it's not sufficient to protect a brand.

Marilyn Cade: And it's Marilyn. Can I get in the queue?

Steve DelBianco: Go ahead Marilyn.

Marilyn Cade: So tomorrow morning's call to me is actually about broader issues, and I really appreciate both what Elisa just said and Fred just said because the complexity of this is so - it's so mysterious I think to some BC members if you don't mind my saying so.

Some members are heavily involved in understanding every aspect of this, and others are looking to those of us who - or you who are experts. The call tomorrow I think is also bringing up a different topic that we should also be paying attention to.

So I support everything that Elisa and Fred have just added - have just said. But I also think the call tomorrow is being sort of put out there as a challenge that the BC and IPC ought to be on the call.

And maybe we could talk about a different issue in the Trademark Clearinghouse for a couple of minutes. And Elisa and Fred will be so much more experts than I am on this, but this has to do with this proposal that a different approach to the issuance of codes also be undertaken.

Can we talk about that for a few minutes as well and making sure there are informed BC members participating in that call?

Steve DelBianco: Great. Let's finish up on this - the ICANN comment which closes the 15th of October, and then we'll jump to that call issue. Fred and Elisa you both commented on the matching of names, and basically said that as far as matches it's a very satisfactory way of expanding matches for these limited sets of substitutions and omissions.

Is it your belief that the BC should comment on the matching process by October 15, or focus instead on broader levels of rights protection mechanisms? Fred and Elisa - yes go ahead.

Elisa Cooper: This is - yes. This is Elisa. I think we're better served to focus on the broader issue of rights protection mechanisms.

Frederick Feldman: And I tend to agree.

Steve DelBianco: Got it. Is it our concept that these implementation rules for the Trademark Clearinghouse do not require changes to the Guidebook, but rather are implementation details for what the Guidebook already require?

Frederick Feldman: I mean, this is - so there's only one place that the BC, you know, representing trademark owners and businesses might want to comment on it, which is inexact match.

Marilyn Cade: Sorry. Fred it's Marilyn. I - can I just make sure that everyone understood what you said? I think you said inexact match as opposed to - so one word, inexact match as opposed to in space exact match. Can I just clarify that?

Frederick Feldman: I'll clarify it. It's - so the Guidebook specifies that the Trademark Clearinghouse as implemented in terms of the claims notification service only will render a match if it's exact and inexact on one of these variants.

Marilyn Cade: Right. And the reason I clarified that is for the transcript, because the transcript could get wrong what you just said.

Frederick Feldman: And what probably trademark owners and business owners want is a not an exact match. They want an inexact match. They want...

Marilyn Cade: Exactly.

Frederick Feldman: ...a substring search.

Marilyn Cade: Thank you.

Steve DelBianco: Got it. So...

Anjali Hansen: This is Anjali. Oh sorry.

Steve DelBianco: Go ahead Anjali.

Anjali Hansen: Sorry. If I can get in the queue. I just wanted to confirm that I agree with Fred on that that there's lots of other types of infringement that clever cybersquatters find that go beyond exact match type of squatters and adding a few, you know, different symbols or letters to try to fool people into believing it's your trademark. So exact matches is definitely not adequate.

Frederick Feldman: The only thing...

Steve DelBianco: Understood. And by October the 15 our comments on the matching based on what I'm hearing now would be something in the nature that as far as the omitted or dropped special characters, these rules seem appropriate.

But then go on to say that the BC believes that these kinds of substitutions and omissions do not nearly cover the range of near matches that cybersquatters and fraudsters use, and then refer them to preapproved BC positions about ways to expand that match. Would that be okay with the folks on this call? I guess an okay but.

Frederick Feldman: Yes. There is an okay but and I just wanted - as a practical matter as a Registrar I understand one thing which is difficult. Substring searches is something that's actually, you know, relatively easy to do.

Sound alike or multiple character substitutions is something that's actually relatively hard to do technically from a computing power perspective over distributed systems.

So I would not be on the record to say that I believe that it - that Registrars are capable of doing sound alike or look alike searches in the process of registering names.

Marilyn Cade: And it's Marilyn. I need to add a request. I was going to talk about this later but I'm just going to say it very quickly. In my one to one call with Fadi Chehade, the CEO and President, I was asked to give our top five priorities for changes in the RPMs.

So we're going to talk about that under Item 4, but I think that Fred is identifying a level of understanding that we need to make sure in our comments we're reflective of so that we have credibility.

But I'm hearing we should submit comments at a high level by October the 15th.

Steve DelBianco: The - Fred's point Marilyn was also brought up at the Melbourne IT event. There's a huge distinction between software driven algorithms to try to come up with fuzzy matches versus direct matches to records that show up in the Clearinghouse database.

And the BC had been on record as approving things like putting strings in the Trademark Clearinghouse database if they'd been the subject of URS or UDRP proceedings.

Then you end up with an exact match of something that's in the database and not as Fred described, a software driven match. And the other issue would be whether a trade- an applicant gets into the Trademark Clearinghouse database with additional strings like PayPal support, PayPal payments and the BC is on record as supporting that.

Neither of those approaches would require software in the way that Fred described. Since they would be exact matches to records it would be allowed to get into the Clearinghouse.

And perhaps that can be a clarifying comment we can make to respond to any critique that we're trying to dream up schemes that would be slow or difficult to implement technically. Fred does that make sense to you?

Frederick Feldman: It does. It does.

Steve DelBianco: Would you be willing to work - you and Elisa be willing to work with me on trying to come up with a comment before the 15th? Of course we'd have to circulate it to our members as much as 7 to 15 days in advance. Would you be able to work with me on that?

Frederick Feldman: Yes to the extent we can. We've got kind of a crazy period of time right now but Elisa and I will do our best to help.

Steve DelBianco: Great. The second...

Marilyn Cade: And I was going to say maybe Anjali could you - Anjali?

Anjali Hansen: Yes. Yes I can too. I'm also very busy as usual but I will make time for this. It's hugely important.

Steve DelBianco: Great. Thank you. The second half of that was another document called Verifying Proof of Use, and this is an admission criteria to get your trademark into the Trademark Clearinghouse database.

And it's a set of rules for proof of use so I'd look to the trademark experts on the call to know whether ICANN's proposal seems adequate.

Elisa Cooper: Again this is Elisa. I - it's very standard. So they're asking...

Steve DelBianco: So do you expect Elisa would there be an okay but on that, or is it just sort of okay?

Elisa Cooper: Well, so the requirements for inclusion into the Trademark Clearinghouse is not only that you have an actual trademark registration, but if you want to be able to - let me just pull it up here.

If you want to get the maximum benefit of the Trademark Clearinghouse, you'll need to show proof of use. So they're saying you can do that by either sending a link or showing, you know, usage of it on packaging or whatnot and you can't use for instance a business card.

But, I mean, there's some rules if we want to make them a little - the issue is the more stringent and difficult we make we're also just doing that to ourselves as well.

I mean, you have to have the trademark registration but if you want to be - if you want - let me just look. I'm looking at the document now. Your rights must be actually verified, so you need to show the proof of use if you want to receive the benefit of sunrise registrations, eligibility for sunrise registration.

If you don't show the proof of use you won't be eligible to register during the sunrise.

Steve DelBianco: Thanks for that. It sounds like we probably wouldn't comment on that particular part.

Anjali Hansen: Yes this is Anjali. That's pretty standard under U.S. law so we already have to do that in the U.S. and I think a lot of other countries. So I don't personally have a problem with it.

Steve DelBianco: Okay. Great. Hey let's move on then. Number 5 on the list of comments was the protection of the Olympics and Red Cross. Has Zahid been able to join the call?

Not hearing Zahid but this is a controversial topic. There's a draft proposal put up and there was a significant division among Working Group members on how if at all to proceed on coming up with a plan to protect international organizations like the Olympic Committee or Red Cross at the second level.

We're not talking about top level anymore but second level protections. And there's division about whether to even proceed with a PDP, and the division falls along the very traditional lines where the businesses are looking for stronger forms of protection that might even be a precedent for trademarks other than Olympics, Red Cross and IGOs.

On the other side are the Non-Commercial Stakeholders Group, and there's also been registered opposition from Thomas Rickert from the NomCom. So there are statements out from different constituencies.

The BC didn't issue a statement yet on this but it'll be due by the 19th of October. And Anjali, you're one of these nonprofit organizations with some experience here.

It would be so helpful if I could have you take a read on Item 5 in this list, and see whether you think there are elements of that where the BC ought to comment on.

Is there anyone else on the call who even would be interested in working on this one?

Marilyn Cade: Steve it's Marilyn. I think I should give an update on discussions with the IGOs and maybe - there may be other members who have an update as well on the IGO discussion before we - if we could do that discussion first.

Steve DelBianco: Yes go ahead Marilyn.

Marilyn Cade: And other members may have also had interactions with the IGOs. I've also had a conversation with the U.S. government about this topic. Others may have as well.

So the Olympics/Red Cross issue is viewed by the GAC - and I'm sorry John and Zahid are not on this call...

John Berard: Well I'm here.

Marilyn Cade: John you're here?

John Berard: Yes.

Marilyn Cade: Oh fantastic. I didn't see you. You're not signed in. Do you want to speak first before I talk about my conversations?

John Berard: Oh well, your conversation is probably more specific to the solution. The problem of course is that the pressure to create a solution is - wants - it's seeking to have this done quickly.

A PDP of course is not a quick solution, but the PDP is the primary method by which these things can be done. And my criticism of the process is that we're being asked to retrofit a solution to a political decision, which is making it not just difficult but also for some who are working on it irritating.

And I don't know - there's a discussion about this at the meeting on Saturday in Toronto to discuss the current state of play led I guess by Jeff Neuman, who's the Chair of the Working Group.

But clearly it - the work of the - of that group has expanded to the second level and expanded beyond the International Olympic Committee and the Red Cross.

It includes consideration of all IGOs and so with that Marilyn if you have something specific from the U.S. government discussions, that'd be great to hear.

Marilyn Cade: Thank you John. That's - I'm so glad. I apologize. I hadn't noted you were on the call. I'm going to just talk about the practicalities from a geopolitical perspective that support everything that John has said.

And I'm - I think there's a few people that Bene will need to make sure we've captured that are attendant on the call today who may have joined a bit late.

The - certain governments have a very strong view that the Red Cross and the IOC should be treated uniquely. And I'm going to not focus on the drama that has taken place to date.

I'm just going to try to summarize for those of us who work in the geopolitical space where we are. So certain governments believe that these two entities should be treated uniquely, and they believe that there is legal support for that from treaties that these entities are protected by and national legislation these entities are protected by.

The document that has been circulated of GAC did not receive full - in the GAC's views I would say did not receive full acceptance. And there's a disparate view between certain parties in the GNSO Council and the GAC about the legitimacy of the legal protections.

Subsequently while this was going on a letter was received by a group of IGOs asking - noting that they too had the right to reserve status. And I think we need to understand that what the Olympics and the Red Cross are asking for is reserve status, as opposed to special IP protection.

That is a really important point for us to understand. I'm going to go on and explain why. So the IGOs that also asked for reserve status stated that they have certain other legal protections.

Some governments dispute the IGO's legal status, however we are faced with a geopolitical issue here. Both of these entity - groups of entities are politically charged.

And from a geopolitical perspective it makes no sense to me personally why we as the BC are not supporting reserve status for these specific groups of names to move them into a non-contested category, and try to get us past some geopolitical arguments.

The question of whether that gives them IP protection is a different issue from reserve status. I need to explain that. When DotInfo and DotBiz were introduced both of them introduced over 5000 reserved names with no PDP.

When DotTravel was introduced they were required by ICANN and the GAC - they introduced thousands of names of countries and territories with no PDP.

So the reserved name status is actually - does not require a PDP, although - and I should just go on to say that ICANN, IETF, IAB and a number of other names are on reserve status and there has never been a PDP to require that.

So I'm not proposing to have an exact answer. But I am thinking that it - we need to come up with a temporary solution, because having angry and annoyed IGOs, which include the ITU, WIPO, WHO, UNESCO, others at this time doesn't really make any sense to me why ICANN wants to have a fight with these entities when they - in any case they do have evidence of fraud and abuse of the registration of their names.

Being on reserve status for a period of time while a PDP takes place could be a solution that moves this from center front to back and allows the - an improved relationship with the governments and the IGOs.

Steve DelBianco: Thanks Marilyn. So to summarize - this is Steve. To summarize the BC doesn't have formal position on things like the Red Cross and Olympics per se.

But prior to this we had three principles. First is we wanted to respect the wishes of governments, because governments have been our ally on so many issues with respect to RPMs and the new gTLDs.

The second is process. The BC always tries to respect the ICANN process where it's necessary, but as you indicated a PDP is not a slam-dunk for this. And the third is a precedent.

The BC has sought protection of Red Cross and Olympics as a bit of a precedent to minimize the defensive registration costs for BC members in the new gTLDs.

You stir all that together and as John Berard just indicated this is currently for Council deliberation. It'll be discussed this coming Saturday in Toronto, and there's currently no motion to be voted next Wednesday in Toronto.

And we are at the point of deliberation and by October the 19th the BC needs to submit its position on this, and it may only be a couple of paragraphs. For instance the intellectual property constituency said they didn't believe that a PDP was necessary.

This is echoing what Marilyn said. They believe it should go ahead but the IPC said, "Let's do our best to have a consensus," and it seems like a very fragile consensus.

And that fragility will probably be evidenced at the Saturday session that John Berard mentioned earlier. So the BC doesn't have a formal position on IOC and Red Cross, but we try to go to the three principles of working well with governments whose interests are consistent with ours.

We want to respect the process and we'd like to see precedents to minimize defensive registration costs. Is there anything more that folks would like to add to that? That's great. Thanks.

We'll skip now to Channel 2 because I know John is on the call and talk about the Council meeting. Of course there's a Council weekend work session all day Saturday and Sunday. A number of us on the call will be there to support John and Zahid if Zahid is able to get his visa cleared; we're waiting on news for that.

And then the Council meeting is Wednesday, the 17th of October. The agenda isn't posted yet. John will have some insights on that. But I did include in the calendar short descriptions and links to the three motions that are up for Council consideration. And you guys will all be proud of our councilors; all three motions are from the Business Constituency.

So, John, if you're there, why don't you take over a quick discussion of Council work this weekend and next Wednesday.

John Berard: Thank you, Steve. There's only been a modest discussion of what that Wednesday agenda is going to look like. It will of course include the election of the new Council chair. And that will be I think one of the more interesting elements because of the nominees, Jonathan Robinson and Thomas - oh my God, I've forgotten Thomas's name...

Steve DelBianco: Rickert. Rickert.

John Berard: Thank you. It must be early here, I apologize. Anyway the three motions that will be on the agenda that Steve mentioned, two of them I authored or at least offered and the third was offered by Zahid.

They are important because they establish the platform on which forthcoming actions will stand and I think that they create a bit more stability where - in at least two cases or maybe all three there has been less or little before.

The first motion is one that I offered which will transmit the work of the Consumer Trust Drafting Team - transmit that work to the Board. This request is from December 2010; Board Resolution Cartagena. The Working Group - the Drafting Team did extraordinary work, I think, in bringing disparate points of view and a diverse membership to consensus.

If you have not read the report you owe it to yourself to take a look at it because it speaks to the ability of Steve DelBianco to herd cats. But that first motion is to transmit that work to the Board as it has requested. We do not

know if the other SOs and ACs are doing similarly but we have shared this work with them.

The second motion - and you can jump in here any time you like. The second motion...

Steve DelBianco: ALAC has backed us, John, that's the good news there. ALAC says they're good with the report.

John Berard: Good. Well, you know, they had extensive participation and when you squeeze all the noise out during the process the ultimate approval ought to be easy to obtain.

((Crosstalk))

Steve DelBianco: You anticipate some pushback from Non Commercial Users groups, right?

John Berard: I do. I do, yes. Wendy Seltzer in particular has been prolific in her criticism of some of the approaches. I guess I could describe it as her feeling tends more to the commercial than to the political and she has, I think, legitimate concerns about a political speech.

The second motion offered by Zahid seeks to clean up some final matters coming out of the Registration Abuse Policies Working Group. There were some discussion about creating, as the motion report, a minimum baseline of registration abuse provisions that should be created for all in-scope ICANN agreements.

This motion seeks to move us to create that baseline and is the last bit coming out of that working group. Well, the second to last bit because the last bit

really - and in keeping with my pedantic push for process and clarity I've offered a motion that establishes - seeks to establish uniformity of reporting.

At this point complaints, comments, criticisms, come over the transom to ICANN in all matter and in all shapes and forms. What we're hoping to do is to create, as the working group recommended, a uniform approach to tracking, reporting and initiating and ultimately analyzing policy violation reports.

This is an attempt to move ICANN to a platform where there can be more confidence in statistical analysis. This is not unlike the work that the BC has been pushing with regard to Whois trying to take some of the steam out of that argument by pushing for more facts to drive the debate.

So I don't think - I believe that all three of these resolutions will pass. I believe that, as Steve said, there'll be some discussion about the consumer trust but I don't think that there will be any uproar over any.

Steve DelBianco: Hey, thanks John. John, are you able to clarify the voting rules on this? I mean, number one is a motion to endorse a letter; two is a PDP, that has special voting rules and three is just an issue report.

John Berard: Right. So the first and the third I think are just flat out a majority but the middle one does require, what is it, 2/3 of each house. I always yield to staff to tell me the specifics. It's one of the things I have not memorized, I apologize. But, yes, it does come with a higher level.

Because initially I tried to sneak it onto the consent agenda and I was told that I couldn't do that.

Steve DelBianco: All right. Any other questions from the members for John? Great, thank you, John, for that report. And as the agenda gets posted we'd really appreciate if you circulated the Wednesday Council agenda to the BC-GNSO (unintelligible) link to it here.

John Berard: But if you were to look at - Benedetta did attach the working session agenda to the email confirming this call. And if you were to look at that you could pretty much - you could successfully create the agenda for Wednesday..

Steve DelBianco: For Wednesday that's great. Thanks, John. Okay, Channel 3, turning to Elisa next, which is the Commercial Stakeholders Group. I put a couple of items in there after talking with Elisa on Friday.

The first item is that currently the Commercial Stakeholders Group, or CSG, is attempting to reach some consensus on rights protection mechanism improvements. And I pasted the content of our last email to the IPC and CSG members at the very bottom of the policy calendar.

And I know that Marilyn noticed this item on the agenda so we're at about that time of the call - and I think this would be a great opportunity to drive into the BC's attempts to get some improvements to the RPMs and our frustrating effort and trying to achieve consensus with our partners in the Commercial Stakeholders Group.

Elisa, would you like to walk through some of those RPM improvements and where they stand?

Elisa Cooper: Yeah, I'm not actually sure where they stand at this point. And I'm not sure what else I can add to them to be honest beside from just describing them further. But you have them all listed below. Are there any...

Steve DelBianco: Okay.

Elisa Cooper: ...that would like to discuss or are there particular things you want to go through in terms of what we - what has been proposed?

Steve DelBianco: Well, thanks, Elisa, because Marilyn has been attempting to boil it down to the short sweet email that can send over to Fadi that she referenced earlier in the call. And that is one level of outreach; get it to the president. You know, a highly effective, I think, but coming out of the Melbourne IT event there was an opportunity that Bruce Tonkin said if the CSG can come to consensus that he would carry something to the Board.

And if we don't have high prospects there the only game left is Marilyn's letter to Fadi.

Marilyn Cade: Actually...

Steve DelBianco: So if we don't have further details maybe Marilyn you can walk us through the tight little bullet points you have for Fadi.

Marilyn Cade: I'm happy to do that. But let me clarify something. Actually Bruce did not say he would carry something to the Board. Bruce is a - Bruce indicated - and I think we need to be careful about our understanding of what Bruce said. Bruce is a conflicted Board member so he can explain things but on the new gTLD group he is conflicted and is not on that group.

So it's really up to us to come up with working with others. And Melbourne IT - leaving Bruce aside as a Board member - Melbourne IT's event was, I think,

a critical convening opportunity. We held a BC outreach meeting in the morning and also talked about these issues.

Let me see if I can summarize my discussions with Fadi. Fadi held one-to-one calls with - Fadi Chehade, our new CEO held one-to-one calls with all of the chairs.

Subsequently, however, I also have initiated outreach with Sally Costerton that I'd like to talk about because I think (unintelligible) very relevant. The - Chris and I and Elisa had a breakfast discussion with Kurt Pritz which we took him through on the 18th - 19th, sorry - which we took him through the significant concerns that the BC had about the present mechanisms and we discussed the objections letter that the BC had sent forward that is the request that the objection period be changed from January the 13th to June or July.

My subsequent conversations with Kurt and others I'm hopeful that we are going to get a modified timeframe for the objection period but it won't be that long.

But the conversations with Sally Costerton are based on a understanding and that was reinforced in my discussion with Fadi that (unintelligible) has to have a modification in the objection period of a reasonable timeframe and a awareness and informational materially informative campaign that informs business how to use the RPMs and how to use the objection period.

Part of that included my promoting our requested changes in the RPMs. So let me go to that. The - what Fadi asked me to do is send him our top five priorities. We can't put everything in a chair's communication back to the CEO.

But I have put together the list of the top priorities based on what we have already talked about and (unintelligible) that fortunately the information and communication program is already agreed to so that doesn't have to go in the top five priorities.

Steve DelBianco: Yeah, good idea; make room for more, right.

Gabriella Szlak: Hello?

Steve DelBianco: Hey, have we lost Marilyn?

Marilyn Cade: No, I'm here. I just was pausing.

Steve DelBianco: Great, please continue.

Marilyn Cade: I think we should hear from others. We have an agreement from Sally to work on a communications plan. We'll talk about that in a different part of the agenda. But let's talk about what the priorities are realizing that what can go to the CEO is only five.

Steve DelBianco: Marilyn, it's Steve. I think it would be helpful to read the five that you've drafted over the weekend and perhaps gather some member reaction to those five.

Marilyn Cade: Sure. Happy to do that. So extend the sunrise period from 30 days to 60 days. Extend the trademark clearinghouse for an indefinite period. I had written...

Steve DelBianco: That was the claims notices right, Marilyn, extend the trademark claims notices indefinitely.

Marilyn Cade: Right, thanks, Steve. Modify the trademark clearinghouse to include an exact match for a do not resolve and a exact match plus whatever words that the trademark holder provides to the trademark clearinghouse.

Steve DelBianco: Marilyn, it's Steve. If I add, the way you phrased that avoids the problem that Fred mentioned earlier about having a software-based algorithm; the way you've described it, and the BC has approved, is explicit strings that go into the database and that should be the easier way to implement it. Thanks.

Marilyn Cade: Thanks. So fix the URS and move forward with it as a low cost alternative. And if necessary have ICANN underwrite it for a period of time so that it is indeed a low cost alternative. Allow the addition of strings that are recovered by URS or UDRP due to either - to certain criteria to be added in to the trademark clearinghouse.

And I think I'm missing one because I'm not looking at my - oh require the Registrars to adhere to the new RAA if they are going to be participating in registrations. One challenge we face is the RAA is not - at this point my understanding is the RAA does not include preauthorization. So we have to make a decision on whether we want to require preauthorization - pre-validation of registrant information in Whois or we're going to hang our hat on the Registrar RAA so that's a discussion we need to have.

And then separately the final question, which is not in the five, and we need to decide if it needs to be, requiring all of the applicants - requiring ICANN to ensure that all of the applicants live up to promises they make in their applications that are not necessarily part of the contract but we believe should be part of the contract.

Steve DelBianco: And, Marilyn, you had one more in your late draft Sunday, which is that if a company recovered string in a UDRP or a URS, let's say a misspelling or a typographical, it would have the option of sticking that into the trademark clearinghouse so that it could generate trademark claim notices to future registrants.

And that's eight items that you've - that would make eight. And all of them are previously approved by the BC. I guess the only dilemma is whether to give Fadi just five or give him eight or find some way to combine these eight to get into the five. What are your thoughts?

Marilyn Cade: Well my thought was we'd take that last one and stick that up under the trademark clearinghouse as an enhancement to the trademark clearinghouse.

Steve DelBianco: I think that's a good idea. And you could also combine 5 and 6 which was the RAA and say that the RAA should include validation of Whois contact information and all Registrars selling in the new gTLDs should use the RAA, maybe combine 5 and 6 as RAA items.

Marilyn Cade: I think that works. I think we just need to be realistic and talk about what's really in the RAA that worked for our sending this to Fadi but we also need to understand what's really going into the RAA.

But of the eight - and regardless of how Steve and I and Elisa and Chris smush them together is there anything that anyone, Chris, maybe, Steve, maybe if anyone wants to comment on these?

Steve DelBianco: Yeah, let's take a queue. Any comments on these eight? Okay so, Marilyn, let's work at getting it down to five or six. Certainly we can get to six just with the two things we discussed. Maybe we send six of them and...

Marilyn Cade: Okay.

Steve DelBianco: And try to make that happen. I think we should also keep pushing on what we discussed earlier in the call which is the CSG coming to consensus. And I would ask whether, Elisa, you're the liaison, could you follow up with Steve Metalitz to - based on that email that we sent over to see whether the IPC is starting to at least prepare to come back to us and try to achieve a consensus before Toronto.

Elisa Cooper: Yeah, I'll follow up with him and see if he's able to do anything.

Steve DelBianco: All right, fantastic. Appreciate that. Let me just finish up on Channel 4 in this seven minutes left. Marilyn, on this one the first item is the one addressed to you; it was the BC Chair's letter regarding the timing of these new gTLD evaluation results and the close of the objection window.

That BC letter was the only item I listed under this topic and I thought it would bear a little more discussion as to where we go from here in terms of the BC using this discrepancy that we identified in the Guidebook as a discrepancy that staff acknowledged. And the BC raised a concern about the fact that the objection window would be closing long before the evaluation results were posted.

This means that those who are filing objections would have to pay fees - significant fees to file an objection only to learn that the applicant would have to withdraw because they didn't pass initial evaluation. And that two-week window was in the original plan and all those plans were sort of thrown aside when we got rid of the whole batching concept.

The question would be, what is it that the BC and our members want to accomplish at this point in terms of changing the timing between the end of initial evaluation and the objection period.

Marilyn Cade: So actually we've already sent the letter. And so we've already actually decided what our strong preference would be. Chris and Elisa and I had breakfast with Kurt and I have had a subsequent call with Kurt and a discussion with some Board members.

And - sorry I'm - I thought I was being clear earlier. I don't expect a extension by several months. But I'm hoping that we are going to get an extension by several weeks. That is not, perhaps, ideal but it is better than what we have today. But...

Steve DelBianco: Marilyn, it's - Marilyn, it's Steve. Let me ask you a question about that? If you got an extension - if we were able to secure an extension where the - you're thinking the objection period might end in say, March, but the initial evaluations, would they still be posted in July?

Marilyn Cade: I think there's some confusion about when the initial evaluations are going to be posted. That seemed to be clear in my discussion with ICANN. And there is, I think, a valid question of it seems that perhaps some initial evaluations may be beginning to be posted earlier.

But what I'm hearing is the idea that there could be an extension by several weeks and an extensive set of information and awareness mechanisms to inform business users and others about how to use the RPMs and how to file objections. And...

Steve DelBianco: Marilyn, a question for you too, is that one of the BC concerns - and you raised it in the letter - was the idea of an objector having to spend the money on the fees, the filing fees, only to learn that the applicant then withdrew. Is there any discussion that ICANN could reimburse the objector if subsequently the applicant failed initial evaluation?

Marilyn Cade: Thanks, Steve. I was just going to comment on the rest of my conversation with Kurt. So we also talked about the idea that ICANN should put together a commitment to reimburse the fees; not the objection - not the dispute provider because that fee would already be expended but that ICANN should put together a mechanism to reimburse the fees.

That is what's being discussed - that was what was taken back from our breakfast to ask ICANN to come up with a reimbursement mechanism. So what we're waiting for now is a response from ICANN to our letter and a proposal that addresses all of these issues.

What I'm attempting to forecast, but it is a crystal ball so it's not perfect, is a fee reimbursement process and extension to mid-March or early April and a extensive commitment to awareness and informational mechanisms to help business understand how to use the RPMs and how to use the objection mechanism. That's separate from our request to have changes in the RPMs. Right?

Steve DelBianco: Definitely, definitely. Well that would be a good outcome; a slight extension, enhanced notification procedures and potential reimbursement.

Elisa Cooper: But Steve...

((Crosstalk))

Steve DelBianco: Go ahead.

Elisa Cooper: I was going to say you started to ask a valid question which was what do the members want?

Steve DelBianco: Exactly. And...

((Crosstalk))

Marilyn Cade: Sorry, it's Marilyn. I'm very happy to hear, again, what the members want but I think we've put what the members want into the letter. And I think we need to also ask what can the members live with, don't we, Elisa? Because...

Elisa Cooper: Well, yeah, yeah, I mean, what can they live with? So what - the question is, yeah, what do they want, what can they live with? I mean, you know, after giving it some thought does an extension of a couple of months do anything for them?

Marilyn Cade: Well I guess I want to understand. It's Marilyn. That the extension of a couple of months is also coupled with an assumption that we are going to work with ICANN to do - to use aggressive information to - initiatives to members about how to use the RPMs leaving aside the improvement issue, and use the objection process.

The objection process deserves a bit of conversation because the objection process is very, very limited for Business. It primarily is dependant, as far as I can tell, we're very dependant right now on public interest objections.

Elisa Cooper: Well that or community objections. I think the community objection but that has to be one in which a trade organization or a similar type of organization is making the objection. And, you know, I think the BC member companies would have to be working with, you know, their trade organizations to file those.

And again I think you have that same issue of, you know, if we don't know what the outcome of the application is whether it's this - been withdrawn or whether it doesn't pass it just seems like, you know, if we could - it would be best if we could at least get that refund, which I understand, you know, which we were discussing. But, you know, I haven't seen anything about a refund for cases where applications are withdrawn or don't pass initial evaluation.

Marilyn Cade: Right that's because we have nothing in writing back from Kurt.

Elisa Cooper: Yeah, right.

Marilyn Cade: And - but I think to Elisa's point, Steve, if we might, you know, I think we do need to figure out what we can live with but we also need to understand that there are Board members who have no sympathies for our position.

Steve DelBianco: Yeah. And I think what Elisa - I'm sympathetic with her view in that what we can live with - because I think that our objective was to be able to not have to spend the money on filing fees and therefore the refund concept would seem to be more valuable than just a couple of month extension to an objection (unintelligible). That's my view but I'm anxious to see if other members have a view as well.

Phil Corwin: Steve, Phil Corwin here. Just want to comment and just - I'm not taking a position one way or the other one this but circulated last week I think there's

this new TLD applicants group which sent a letter that I circulated last week on the BC list, which pushed back specifically against the BC position on this.

So it's just for members of the BC to be aware that there is this pushback from the other side and the Board is hearing from both positions.

Steve DelBianco: Yeah, and their ammunition is suggesting that the BC was really asking ICANN to extend the objection period by seven or eight months. I think that's very uncharitable reading of what the BC's concern was so that's why I was hoping to focus this on the notion of getting refunds without making it seem like the BC wanted a seven-month extension to the objection period.

Marilyn Cade: But, Steve, I think to Elisa's point some extension is really needed for industry groups to organize and figure out whether or not they can file a community objection. To me - it's Marilyn speaking - I would regret that we have to send companies to governments to file government - to file public interest objections. But certain industries may have to do that.

It does take more time than January the 13th. I mean, really the realistic issue here - and I think this is very realistic - that industry, for the most part, cannot work over the Christmas holiday. It was a very unrealistic period. So at least we ought to be asking for a several-week extension plus a refund, I think.

And a significant awareness campaign so that Business knows what their rights are and not just Business but others know what their rights are.

Steve DelBianco: Great.

((Crosstalk))

Steve DelBianco: We're on the hour so let's see if we have a final queue on this topic or other policy-related topics.

Janet O'Callaghan: Hi, it's Janet from NewsCorp, if I could get in the queue please?

Steve DelBianco: Please, Janet, go ahead.

Janet O'Callaghan: I just wanted to say that I know this was something that was of a big concern for us when basically the objection period just went away. And what I would say is what we're really looking for is just, you know, a reasonable amount of time. And I know that what that exactly is could be hard to determine.

But, you know, as a company, and again through our associations to really have them vet who is left after that initial evaluation and to, you know, and to see if there's any objections. And I think that the refund concept is a good one but I think we're actually hoping to even avoid sort of getting into that extra step and additional red tape.

I think what we're looking for is maybe like a four-week period to really see who's gone through the first evaluation and say okay, you know, like this is fine or no we do need to file a formal objection. Because it's not just the money, as has been stated, it is also the, you know, the time and human resources that will be put into that as well.

So I guess - do we have any idea when ICANN will respond to the BC letter?
I'm sorry if I missed that point.

Marilyn Cade: Janet, they're working on it right now. But you're coming - it's Marilyn - you're going to be in Toronto right?

Janet O'Callaghan: Correct.

Marilyn Cade: So just a heads up for all of you - I was going to say this later, I'm going to say it now - Sally Costerton is going to be with us for an hour. And I need volunteers from Business who are able to give short - very short statements about why you need this change. So you're on my list now.

Janet O'Callaghan: Okay.

Gabriella Szlak: Marilyn, this is Gabby.

Steve DelBianco: Janet, the way you articulated that too - Janet, this is Steve - the way you articulated that, I mean, that's the purpose of our letter is that ICANN does not plan to give initial evaluations prior to the close of the objection period.

And it doesn't look as if we're going to be able to change that completely. We're looking to shave a little off the edges with the refund process...

Janet O'Callaghan: Okay.

Steve DelBianco: ...better information. And, as Marilyn indicated earlier, a couple of month extension that would help get us through the Christmas holiday issue but it doesn't help at all with the fact that some initial evaluations could be four months after the end of the objection period.

Gabriella Szlak: So can I step in? This is Gabby from eInstituto.

Steve DelBianco: Oh please do, Gabby.

Gabriella Szlak: I will also be willing to be a volunteer in that conversation with Sally. I would like to say about the need for awareness in my region and about the date that it's not convenient because 13 of January it's in the middle of vacations around the whole Latin American countries so it's not only Christmas but also January everything is closed around here.

So in particular governments do not attend in the same kind of level. So I would like to say that also.

Steve DelBianco: Great point.

Marilyn Cade: Fantastic.

Steve DelBianco: Great point. Any other members want to weigh in on this topic or we'll turn it back over to Marilyn for the general agenda. Great, thanks, Marilyn. That's the end of the policy statement.

Marilyn Cade: Steve, thank you. I think we've covered actually most of the topics we were going to cover. I just wanted to make sure - and, you know, we've covered the discussion we needed to have on the RPMs. Gotten a lot of information about that. I'm going to send out an email - I'll have Bennie do this. We are going to have a small team putting together a prepared presentation for Sally that defines our need for broader communication with Business.

And I'm going to draw on some of the folks who've been engaged in our efforts to create outreach and add Gabby, Nizar Zaka, who's a member of ours from the MENA Region and others. We'll have a short presentation to Sally about our broad views about communication with Business.

And then we'll go into a specific discussion about what would go in to materials and activities that would bring Business forward on the concerns about the new gTLDs using the RPMs and using the objection period. So stay tuned for an email on that. And I'm going to propose a list of original drafters but anyone is welcome to volunteer to join that. And I just - I already had Janet and Gabby on the list.

I think we've covered, Steve, all of the key issues. But I'm going to take just three minutes and turn to Chris as an FYI for Chris to update members about the fact that we're going to have a FAQ sheet and we're going to have a newsletter. And, Chris, can I ask you to just briefly highlight that for members? If I still have Chris on the phone?

Benedetta Rossi: Yes, he's still on line.

Marilyn Cade: Chris? Chris? Well, I mean, let me do this then. And maybe Chris will pipe in. We will be disturbing a FAQ sheet through the fellowship - sorry through the newcomers lounge. And Gabby will be staffing the newcomers lounge for three or four days, right Gabby?

Gabriella Szlak: Yes, from Sunday to Wednesday actually.

Marilyn Cade: And then popping in to join us as well on Tuesday at some critical opportunities. So we'll have a new updated FAQ sheet. You'll be seeing copies of it in your email sent to you in the next probably 6-8 hours in PDF form. We will also have a newsletter.

The newsletter has two highlights; one is on Business support for concerns about SSR, Security, Stability and Resiliency and a article by Elisa that gives some facts and figures about the new gTLD program and a column from the

Chair that talks about the improvements into the - in the RPMs we're asking for.

That newsletter will be given to the Board, to the GAC and to the GNSO Council. All of you who want copies on site we'll have a few to hand out. We will put it out at the reception as well and then it will be online. But it's a communication mechanism that we're hoping to get you to use to encourage others that you know to join the BC.

It's a huge amount of work from Chris and from Gabby and from our other contributors. And we're very pleased to announce that the CSO's office has worked with us this time and will work with us for China as well to have an update that can be translated for their section into Chinese.

I think that's it, Steve, that's everything that I need to cover.

Steve DelBianco: That's all for me.

Marilyn Cade: Is there anyone else who wants to - Bennie sent out a huge amount of information to all of you so I need to just make an announcement on Bennie's behalf. Bennie will be working with us up until an unannounced time when she will go on family leave because she will be drawn away because she and her partner are having twins.

So she'll be with us for the next days as she's able to but will not be able to be in Toronto with us. So we'll soon have an announcement for the BC about inviting and welcoming our next two BC members. But I do just want to mention to all of you Bennie's been doing a terrific amount of work for us in spite of needing to be away for other purposes. So you've got a huge amount of incoming information from her that I hope helps you prepare.

And in your communications if you have questions send them now before she has to leave for family leave. And join me in congratulating Bennie and Nathalie on their upcoming announcement.

Thanks, everyone, for joining us. And we look forward to - if you haven't told Bennie when you're arriving in Toronto please do that so that we can make sure that you guys get notices if we have to do an emergency even or have a social event, etcetera.

Any questions? Thanks everyone. And Anjali, I'm looking for you to be online for some of our events so I'll try to give you a call later today okay?

Anjali Hansen: Okay thanks, a lot.

Marilyn Cade: Fantastic. Thanks everyone. Bye.

((Crosstalk))

Woman: Thanks you. Bye.

END