



Minutes BC Members Call October 17th, 2013 11 am EDT (3 pm UTC)

BC Attendees:

Elisa Cooper
Steve DelBianco
Chris Chaplow
John Berard
Marilyn Cade
Jimson Olufuye
Ron Andruff
Janet O'Callaghan
Jim Baskin
Aparna Sridhar
Andy Abrams
Philip Corwin
Martin Sutton

Alex Deacon
Gabriela Szlak
Caroline Greer
Emmett O'Keefe
Andrew Mack
Tim Chen
Linda Kinney
Stephane Van Gelder
Benedetta Rossi, BC Secretariat

Apologies:

Ayesha Hassan
David Fares
Angie Graves
Laura Covington

Judy Song-Marshall
Richard Friedman

1. Introduction

Elisa Cooper:

- Elisa reviewed the agenda and introduced a couple of topics to be discussed prior to commencing the items on the agenda.

BC Agenda for BA & Montevideo Statement:

Elisa Cooper:

- Elisa noted that the BC is scheduled to meet with the SSAC in Buenos Aires, and that the main topic for discussion will be name collisions. The CSG is also scheduled to meet with the ATRT.

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- Elisa noted that she would prefer to not have many speakers for the BC meeting in BA but to try and have Fadi Chehade, or his proxy to meet with the BC and explain further his perspective on what it means to further internationalize ICANN and the IANA function.
- Elisa opened the discussion up to members to give their input on topics or speakers for the BC agenda in Buenos Aires.

John Berard:

- John highlighted the importance of reconnecting the discussion with the community, asking the BC to instigate a leadership discussion as the BC has often done in the past with the other constituencies and stakeholder groups to set the table and draw Fadi into it.
- The idea in itself cannot yet be judged good or bad, but John noted that the BC owes it to its members and to their colleagues in the community to have a discussion about what the implications are of what they have heard.
- John proposed for the BC to convene a group within the GNSO in BA to draw Fadi in the discussion.

Philip Corwin:

- Phil noted that the threshold question is there is no more major policy issue for ICANN, and this is a policy issue, then who is going to hold IANA contract, who's going to be making the decisions within ICANN? What is the role of governments with ICANN? All of that is going to be on the table at the summit in Brazil.
- Phil's personal opinion is that Fadi is essentially conducting foreign policy on behalf of ICANN, and this is a huge policy question which has not been discussed with the community up to this point.
- Has the ICANN Board played a role in this? Have these activities been approved by the Board?
- And we're heading toward a situation where a discussion will be held in Rio next May to discuss the future of ICANN in which the community will be part of the discussion but it's really going to be discussion taking place outside of ICANN.
- Phil addressed what he believes is the number one question about the Montevideo statement: What was Fadi's authority to take this initiative to bring global pressure for the US to surrender the IANA contract without any prior discussion with the community? And what does it mean for business going forward?

Jim Baskin:

- Jim agrees with Phil's comments.
- Jim noted that the question should also be: what is the documented position of ICANN and who is making which decisions and let's see what they are and try to get back on this track of getting the constituencies involved, getting the users involved.

Philip Corwin:

- Phil noted for the information of BC members that there is a video of Fadi giving about a minute and a half remarks following his meeting with the President of Brazil in which he says that the

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entire world agreed with her remarks at the United Nations that she is the leader on globalization of the Internet. And that he went to meet her to invite Brazil to hold this meeting, stating that this was an ICANN initiative, not a Brazilian initiative.

Aparna Sridhar:

- Aparna expressed her support in getting some greater clarity on these issues. Aparna noted that the discussion among BC members is productive, but without extra information will not go past being inherently speculative.

Elisa Cooper:

- Elisa proposed reaching out to Fadi directly to set up a conference call with him to get further clarifications about his statements. This call might also be extended to the CSG.
- Elisa asked if members opposed this approach.

Marilyn Cade:

- Marilyn noted that she believes that waiting for BA to reach out to Fadi would be too late. Before BA the IGF in Bali will take place, where Fadi will also be speaking and addressing this topic. ICANN Board members will also be present.
- Marilyn therefore expressed her support in reaching out to Fadi directly, but prior to BA.

Andy Abrams:

- Andy noted that prior to speaking to Fadi the BC should draft direct questions to ask him. Members discussed addressing as a main question what Fadi meant with his statements, and other members asking what the end point was. Due to the narrow window the BC might have to address Fadi on this matter, Andrew stressed the importance of being on the same page.

Elisa Cooper:

- Elisa agreed with Andrew and noted that she would like further clarification about what does he mean by additional internationalization of the IANA function? And are we thinking that ICANN is going to become a truly international organization? And does that mean that ultimately his thoughts are that the US government would no longer have that contract? Elisa noted that she believes these are all questions that are of concern to business.

ACTION ITEM: John Berard, Philip Corwin and Andrew Mack will draft a set of questions to address to Fadi.

Marilyn Cade:

- Marilyn noted that Fadi has been saying for some time that he supports changing the nature of ICANN to something equal and multistakeholderism, something of that nature which changes the role of governance.

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- Marilyn supports for the BC to move ahead and ask Fadi the tough questions brought forward by BC members on the call, but she also noted that if you read the Montevideo document he has raised, he also led the agenda for the Montevideo statement.
- Marilyn therefore thinks Fadi might have Board Support, and in this case the BC would need to have a plan to talk with the Board in their CSG discussion about the disconnect between what they think of themselves as part of the community and the Board and Fadi.

Jim Baskin:

- Jim noted that whatever the BC does, and whatever positions the BC comes up with, it is imperative for the BC to be very careful to ensure that their positions and statements can be seen or will be seen as truly an international business position. There are a lot of US businesses as members of the BC, but equally international businesses, so it's important for the BC positions to not be viewed as US businesses trying to protect the US interest.

Stéphane Van Gelder:

- Stéphane asked BC members, and in particular John Berard since he started this discussion on the BC list, what exactly is wrong in the whole of the business community's eyes in ICANN becoming less American and more international?

John Berard:

- John responded that his opposition is not in ICANN being internationalized as much as it is to it being done without his notice.

Phil Corwin:

- Phil noted that from his perspective a discussion of changing the overall structure of ICANN going forward and control of the IANA function is a perfectly legitimate discussion but we haven't had that discussion for one minute within ICANN.
- ICANN's CEO has then gone to sign a statement declaring that it should be essentially taken away from the US and globalized and then flew to Brazil to ask the president of Brazil to hold a conference to discuss how ICANN should be restructured without any input from the community. And we have no idea what approval, if any, he has from the Board for this.
- So the subject matter is perfectly legitimate but the process so far is extremely questionable.

ACTION ITEM: Elisa Cooper will reach out to Fadi asking for 45 minutes to an hour at his convenience where he BC can speak with him, and she will see if the ISPCP and the IPC also would like to participate.

Elisa Cooper:

- Elisa asked members to think about what other topics the BC should be covering in BA, whether it's related to new gTLDs, or WHOIS, privacy and proxy. Elisa would like the BC to have a rich agenda focused on areas of interest to members.



New Members:

Elisa Cooper:

- Elisa noted that the BC have welcomed several new members from the beginning of the year, but have not updated the full membership about the new members.
- Starting out, we had Pfizer join as a voting member, then Amazon as a non-voting member, PSW Group, then Stéphane Van Gelder Consulting, AMGlobal, Yahoo, DomainTools – Elisa noted that Tim Chen is on the call and she welcomed him - General Electric and then most recently Neustar as a non-voting member.
- The BC will get a full budget update of where the BC is in terms of their budget in the next meeting.

2. CSG Update – Marilyn Cade

Marilyn Cade:

- Marilyn reminded members that on Sunday morning in BA there's an invitation out to the two Board members for an 8:00 a.m. session. The CSG is being coordinated by the IPC at this meeting. This session will be an early morning, small and informal one-hour opportunity to meet with the two Board members Bruce Tonkin and Bill Graham.
- Then in the afternoon the CSG has a two-hour session and they have been confirmed that they have a cocktail between the CSG and the Board and the timing for that is 6:30 p.m. to 7:30 p.m.
- The IPC is coordinating the topics for the working session, and the Secretariat will be sending out the update on that.
- On Monday we have the potential newcomers event that is still to be confirmed. And I don't know if Gabriela is on the phone but if so she may be able to comment on that. But there may be a reception as well that is being organized by Chris Mondini that the CSG would be invited to but it's focused on newcomers.
- On Tuesday morning we start out with the cross-constituency breakfast. We're still waiting for the GAC to confirm. And then we have the CSG meeting where the SSAC and ATRT are confirmed speakers.
- The CSG meeting on Tuesday is followed by the CSG meeting with ICANN's Board, the set topics for this discussion are still to be finalized. And then we, of course, have the BC meeting.

3. GNSO Council Update – John Berard

John Berard:

- John updated BC members on the outcomes of the GNSO Council meeting which took place on October 10th, 2013.
- The Council is moving forward on a PDP for remaining issues in the RAA discussion. There's a charter being devised for that working group.

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- John was named the chair of the cross-community working group - reconstituted cross-community working group working group, which he believes is incredibly important. This project was initially started a year ago but the other SOs and ACs thought the GNSO got out ahead of the community, so this is an attempt to bring others, including the ccNSO and others into the fold quicker/sooner so that everybody feels greater ownership.
- There was also a conversation with Christine Willett, which BC members will have seen recounted by Steve DelBianco on the mailing list in regard to staff-driven attempts to resolve the confusion over some of the singular plural decisions. Steve will follow up on this topic in the policy update section of the call.

Stéphane Van Gelder:

- Stéphane asked John if there had been any discussion about the forthcoming elections for the GNSO leadership. Stéphane turned this question to the whole group because he had posted this to the BC list and did not receive much interest from members.
- Stéphane was surprised since he would have thought that the BC would have wanted to as a group at least have some input into the process and the decisions about certainly their house's vice chair.

John Berard:

- John noted that the Council agreed to use the same election procedures as has been used in the past so that the new council would be seated at the end of the Annual meeting and that council will elect the officers.
- John agreed that the BC should indeed have a discussion about preferences regarding candidates, but these discussions have not yet taken place as a group.

Marilyn Cade:

- Marilyn noted that there is an agreed-upon process within the house on the rotation of the nomination process for the vice-chairs.
- Last year there was an Ombudsmen appeal because there was dissatisfaction with how things had worked out on the side of the NCUC.
- Elisa, Marilyn, and representatives from the ICC and the CSG met with the Ombudsman and representatives of the NCSG to reconfirm the process. It is the NCSG's turn to nominate a vice-chair.
- If that vice-chair receives eight votes -meaning they would have to get all six of their votes, plus either two from the CSG or one from the CSG and one from the Nominating committee voting member, then they become the vice-chair. If they don't get eight votes then we go into a new process, in which case we could conceivably put forward a vice-chair position.
- Marilyn noted that things were acrimonious last year and the year before and the CSG actually has held the vice-chair role for the past few years with Wolf Ulrich. Prior to that an NCSG nominee and representative Mary Wong held the vice-chair role.



- Marilyn’s understanding is that the elections have just concluded in the NCSG and the CSG will be getting in contact with the new chair Rafik Dammak to talk about the process.

Stéphane Van Gelder:

- Stéphane asked Marilyn follow-up questions regarding the election process.
- Regarding the eight votes Marilyn mentioned, Stéphane asked if it means that in case there isn’t unanimity on their side then we have a say, but if there is then we accept the fact that their candidate is the one.
- And the second question Stéphane addressed is whether this process is only for the vice-chair seat?

Marilyn Cade:

- The agreement within the house relates to the vice-chair and does not address the chair position. What we've done in the past has been to informally discuss the chair candidates, but not made any kind of formal arrangement like we ended up making on the vice-chair nomination.
- Marilyn noted that whoever the Chair candidates are, that discussion will be an open one and should be brought to the CSG.
- Regarding the eight votes Marilyn noted that the decision for eight votes was reached so that a single SG could not control the vote. Each SG has six councilors and the reason to make it eight means that there has to be at least one vote from the other SG or two or one from the SG and the voting Nominating committee member, if there is one, and in this case there is one. There's a new incoming councilor who is a voting representative.

4. Policy Update and Open Public Comments – Steve DelBianco

Steve DelBianco:

- Steve noted that he did not circulate a policy calendar because it hasn't changed that much since the one he sent around on October the 4th. Steve then ran through the list of things BC members need to pay attention to now.

New Collision Management Proposal:

- Right after the last BC call ICANN released a new adopted proposal for how they're going to manage the consequences of collisions with new TLDs. It's significantly different than the earlier draft that we all commented on and the new gTLD Program committee adopted this on October the 4th without an opportunity for public comment.
- Nonetheless, people are commenting on it. It will be a hot topic in Buenos Aires. And the Online Trust Alliance is holding an event in Washington DC on October the 29th to specifically discuss with ICANN and any interested parties whether the new collision management proposal really answers the concerns of the community, particularly the SSAC and the GAC.

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- This event is open for everyone to attend. Members participating so far: Steve DelBianco, Anjali Hansen, Phil Corwin, Sarah Deutsch. Steve noted that members who are interested in participating should email him to find out the coordinates for registration.
- Steve commented on the new collision proposal and noted that it gets rid of the notion of uncalculated risk TLDs, because if you recall back in September, the plan was that TLDs that had more than 50 thousand queries over two days in the Day in the Life study were called uncalculated risk. It would have to meet some unspecified evidence to show that they had mitigated collision. That's all gone now.
- The current plan is that basically any TLD other than Corp and Home can proceed to delegation if it promises to block second level domains in their TLD, which showed up a couple of years ago during that two-day period of Day in the Life.
- The BC comments considered that a minimum and not necessarily the way to solve the problem. So Steve believes it's important to analyze what happens with collision after delegation begins.
- The BC will focus mostly on this: collisions that occur after delegation is up and before registrations are there, helping the business community remedy the cause of the collisions as well as blocking a second level domain by the gTLD operator.

Stéphane Van Gelder:

- Stéphane noted that he understands that the new requirements may be a lower limit for the Business Constituency. However, he suggested that the implementation of a list of reserved names or blocked names the way that it's currently described is actually difficult to do for the registries themselves. Some registries may end up blocking a great number of names.
- Stéphane noted that this feels like it hasn't been thought through as well as it might have and might not be the ideal solution.
- Stéphane does not think this is ideal from the BC's point of view, nor from the operator's point of view either.

ACTION ITEM: Stéphane will explain/send to the BC the specifics of how this SLD block list would be difficult to implement.

DNS risk management framework:

Steve DelBianco:

- Steve noted that Marilyn made a suggestion for Steve follow up with the two BC members who know DNS Risk Management Framework best, Jeff Brueggeman of AT&T and Scott McCormick.
- Steve immediately followed up with both Jeff and Scott but got no reply.

International Governmental Organizations and International Non-Governmental Organizations (IGOs and NGOs):



- The BC circulated a list of replies and at least eight members of the BC agreed with the replies. The challenge, though, is turning it into a drafted textual comment.
- Steve tried to find a volunteer for drafting the text, but if no volunteer is found, Steve will submit the comments on behalf of the BC probably next week prior to the deadline by simply submitting the BC’s replies. Each reply contains an explanation so as Marilyn’s indicated, it would be better if the BC found a more textual explanation for these comments to put them in context so as not to imply that we’re being dismissive of the legitimate concerns of these groups.
- Steve asked for volunteers to draft this comment. No one volunteered.

Study on Whois Privacy and Proxy Services Abuses:

Steve DelBianco:

- These comments are due by the 22nd of October. Susan Kawaguchi is most familiar with this among all BC members and Susan volunteered to help draft the BC comment. But at the time, Susan’s mother passed away and she’s busy on the Expert Working group.
- Steve asked for other members on the call that have enough experience on privacy and proxy services that could help to analyze that study that just came in.

ACTION ITEM: Elisa Cooper has a draft to send to members.

The Public Interest Commitments (PIC):

Steve DelBianco:

- The PIC has a dispute resolution process or a PIC DRP that’s now been released for public comment. And the initial comments close on the 23rd of October.
- The BC was a huge advocate for this Public Interest Commitments for things that an applicant or a new gTLD claimed they were going to do but wasn’t baked into the contract. The GAC also picked up on this by requiring that Public Interest Commitments include things that would guard against consumer confusion and what are called the safeguards that came out of the Beijing advice.
- Gabriela Szlak and Anjali Hansen volunteered to draft comments, and Steve circulated them on the 11th of October. These comments will close on the 22nd of October and be submitted unless BC members come forth with edits, comments or suggestions.

Ron Andruff:

- Ron mentioned that in regards to the PIC DRP he is currently working on a document that he wants to publish on Circle ID on that shortly, so he has given a lot of thought to what these PICs need to look like and so forth and working with other colleagues. If he finds anything of interest for the draft being written by the BC he will submit it to the list.

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Singulars and Plurals:

Steve DelBianco:

- In regards to the singulars vs. plurals issue, Steve noted the rampant confusion in the decisions that are made by arbitrators pursuant to objection.
- During the council call Christine Willett, who is in charge of the new gTLD program, reiterated the same thing that Elisa had put in the draft letter, which is that, "Staff are considering multiple options to ensure consistent and understandable results."
- Steve noted that he thinks that the BC should comment quickly with a letter. There is no public comment period on this, so the time to weigh in is now.
- Elisa circulated a draft and a few members including Steve, Mike Rodenbaugh, and Mari Jo Keukelaar, made edits to suggest that the BC would request that ICANN publish any evidence that was considered by expert panels, arbitration providers and staff, but mainly our request is we ask ICANN to public more specific and objective criteria that should be used to judge string similarity and then allow for an appeals system.
- Steve’s objective is to finalize the letter asap for Elisa to send it to ICANN’s Board this week.

Marilyn Cade:

- Marilyn will follow up with the ALAC in regards to PICs and ask them to respond to the BC. It is Marilyn’s understanding that the ALAC is taking a very strong position that the approach that the new gTLD committee is not adequate.
- Marilyn will see what she can find out and forward it Gabriela and Anjali.

ACTION ITEM: Steve asked Marilyn to contact the ALAC on three topics: singular vs. plurals, collision and PIC DRPs, in order to get some feedback from them about these topics.

Steve DelBianco:

- Steve asked if there are any objections or comments with respect to the new draft on the singular plural letter.
- No objections or comments were made. Steve will wait until close of business the following day and then Elisa will send the letter to Crocker, the Board and Fadi.

5. Conclusion – Elisa Cooper

Elisa Cooper:

- Elisa thanked Steve for his work on the policy topics, and all members for joining the BC members call.
- The call was adjourned.