Minutes BC Members Call
October 4th, 2013
11 am EDT (3 pm UTC)

BC Attendees:

Elisa Cooper	Anjali Hansen
Steve DelBianco	Philip Corwin
Chris Chaplow	Richard Friedman
Marilyn Cade	Mark Sloan
John Berard	Aparna Sridhar
Zahid Jamil	Yvette Miller
Gabriela Szlak	Laura Covington
Barbara Wanner	Benedetta Rossi, BC Secretariat
Ayesha Hassan	
Ron Andruff	
Andy Abrams	
Jim Baskin	

Apologies:

David Fares	Elizabeth Sweezey
Sarah Deutsch	Marie Pattullo
Janet O'Callaghan	Olga Yaguez

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.

Buenos Aires Meeting:

Elisa Cooper:
- Elisa noted that there have been long discussions regarding who to invite to the Cross Constituency Breakfast scheduled to take place on Tuesday in Buenos Aires.
- Members have expressed an interest in speaking with the GAC – Government Advisory Committee, and with the SSAC, the Security and Stability Advisory Committee.

- Elisa noted that the plan for the SSAC is to try to speak with them as part of the full CSG, possibly on Sunday, alternatively during Monday's or Wednesday's lunchtime slots.
- Elisa asked members to let her know if there are other groups BC Members are interested in meeting with in Buenos Aires other than the GAC and the SSAC.

Charter Updates & Charter Limits

Elisa Cooper:
- Elisa apologized to members for the delay in completing updates to the Charter, and noted that there have been a lot of policy issues going on and the Charter updates were pushed aside due to this.
- Elisa asked members for a volunteer to move forward with the updates by gathering all submitted updates to drive the updates forward.

ACTION ITEM: Marilyn Cade and Gabriela Szlak volunteered to move forward with the Charter amendment document.

GNSO Councilor & Small Business Representative on ICANN's NomCom Election:

Elisa Cooper:
- Elisa congratulated Stéphane Van Gelder for being appointed chair elect for the nominating committee, and noted that due to this appointment, the BC has opened an election for both the GNSO Councilor open seat and the Nominating Committee Small Business Seat.
- This election opened today, and members will have seen the announcement posted by Benedetta Rossi, BC Secretariat, serving as Voting Officer for the election.
- The nomination period will last for two weeks, as noted in the announcement.

Outreach Sub-committee for Small & Medium Businesses:

Anjali Hansen:
- Elisa and Anjali discussed putting together a sub-committee focused on outreach for small and medium businesses.
- Anjali emailed the BC list stating that it would be a good idea for the BC to do some outreach on the new gTLD issue aimed at small and medium sized businesses.
- Anjali received a lot of positive feedback from BC members, so Elisa recommended for Anjali to draft a strategic plan and a list of targets to get more business support and broaden the reach and awareness of the BC.
- So far Anjali has come up with an idea of the content for this type of outreach and thought they could come up with a website, a Webinar or engage other associations in different countries to do a bit of educating on the current state of the new gTLD program, the rights to protection

mechanisms, brand protection, and how they could become involved with the BC. This would therefore also promote the BC.

- Volunteers to participate in the sub-committee: Gabriela Szlak, Celia Lerman, Angie Graves, Marilyn Cade, and Yvette Miller.
- Anjali noted that the group would be coordinating with Chris Mondini at ICANN, and that she would be very interested in having Ayesha Hassan participate as well if she was available to.
- Anjali stated that she is looking for members who have contacts with small and medium businesses or at least knowledge of contacts in Africa and the Middle East.
- Anjali proposed to begin working immediately with Gabriela and Celia due to the upcoming meeting in Buenos Aires to aim to target businesses in South America.
- The next phase could be North America, including Mexico, then Europe, the Middle East and Africa.

ACTION ITEM: Members who are interested in taking part in this group should email Anjali Hansen directly.

2. Finance Update – Chris Chaplow

Chris Chaplow:
- Chris reviewed ICANN's general budget: on the 22nd of August, the Board approved the FY14 operating plan and budget and that was almost identical to the draft. In fact, the operating expenses - 84.871 million instead of 84.499 million gives you an indication of how little change there was. That's the non-gTLD operating expenses.
- Two exceptions had been mentioned in Durban: one was exceptional items, one was 3.5 million for the strategic panels, and the other was .7 million for At- Large summits in London.
- Chris did not find any mention of the ICANN labs, which he understands are costing about 1.9 million.
- FY13 expenses: the forecast on costs have now gone down from 68 down to 65 and that was on a budget of 77. The year before, 77 million was budgeted and only 65 million was spent this year.
- Looking forward to this year or next year's budget cycle, there is supposed to be a budget process development group in this part of the year. Chris has not yet heard anything about that starting.
- There are likely to be a couple of calls for that and that's for talking about the process in advance of the budget round of documents, comments, which would start next January. That's also usually based on the strategic plan and is usually published about now in October.
- Now last year, the strategic plan was more of a copy of the year before, because there was going to be a big review of the strategic plan.
- Moving on to SOAC support requests, the CSG leaders had a call with Rob Hoggarth back on the 3rd of September to discuss the implementation of the requests that were approved this, namely secretariat support, banking support, outreach events, outreach materials.

- Chris noted that the BC had an approved budget for Outreach materials so he noted that Anjali Hansen's outreach project – if needed collateral – could be funded by ICANN for PDFs, printouts, or any other materials.
- Chris noted that the rules for materials have been changed and ICANN now will produce them through their communication department and languages department, which was not done in the past. This, unfortunately, is likely to be more time consuming and difficult to achieve.
- Chris noted that the CSG leadership should have a follow-up call with Rob Hoggarth, and Chris will send out a list of action items from the previous call to the full membership list.
- BC Finances: the BC has just completed the third quarter of the year and as far as Chris knows the BC is on budget. Chris and Benedetta have just completed the third quarter finances, and Chris will report back in Buenos Aires.
- The BC Budget for 2014 does not need to be addressed as of yet, but Chris noted that it would be desirable for the Finance Committee to be able to publish this mid-January 2014, ahead of the BC elections.

Elisa Cooper:
- Elisa noted that it would be great if Chris and Benedetta could work on a detailed reconciliation of the BC expenses since she is aware that funds which were budgeted for did not get used, so she is interested in seeing where things are.

3. **GNSO Council Update – John Berard**

John Berard:
- John noted that the upcoming GNSO Council meeting next week has four items that are of highest interest to the Business Constituency.
- The first one is the attempt via motion to approve the framework for cross community working groups to reinvigorate that discussion. You may recall that the GNSO Council formed a drafting team and then invited other SOs and ACs to comment. A few did and those that did had more problems with the effort than support, and so there is an attempt to start over essentially. Since John was involved in the initial work, he has agreed that should the motion pass he will be the chair of this particular effort. John noted that he believes it's important for the Council to figure out how to organize cross community working groups as they look at the future of a much more comingled ICANN community.
- The second item of relevance to the BC: the development of the new registrar accreditation agreement, which the BC has been deeply involved in and tracked its development. There are a number of things that were points of discussion on the BC list that did not make it into the new 2013 agreement.
- There is a discussion at the council regarding the possibility of a PDP to handle those particular issues, and so if there are any that strike BC members as important yet outside the framework of the new RAA, please let John or Zahid know and they can bring them up during that discussion.

- The third and fourth items are two things that have been current on the BC mailing list. The first one having to do with string confusion. Essentially it's singulars and plurals. There is a fair bit of noise being made by the council that the inconsistency with regard to singulars and plurals has led to a certain incongruity in the program and could undermine competence. John noted that there is going to be a discussion about what to do about that.
- There will be a similar discussion with regard to the INGO names. Thomas Rickert is the chair of that working group and will be leading the conversation, offering reports of where things are.

Ron Andruff:
- Ron noted that John referred to the fact the GNSO Council is feeling the pressure on singulars vs. plurals and that this topic is being discussed at length.
- Ron noted that he and Elisa worked on a draft letter on this matter and he wonders if John would be able to pass it on to the Council for the Council to take up as a working document to perhaps improve it and send on to the NGPC.

John Berard:
- John supported Ron's point and noted that it would be a good way for the BC to let their colleagues know exactly where they are on the matter. Looking at it a bit more strategically, the confusion that results from the singulars and plurals is all as ICANN staff would tell you within the context of the program itself.

4. **CSG Update – Marilyn Cade**

Marilyn Cade:
- Marilyn noted that she has sent several emails to the BC list regarding potential speakers for the CSG meetings in Buenos Aires and the Cross Constituency Breakfast.
- Marilyn noted she would like to focus her CSG update on the role of the CSG for elections of the Chair and Vice Chair of the GNSO Council since she saw an email on the BC mailing list that seemed to indicate that the BC should brief members on how the Business Constituency participates in elections for vice chair and for chair.
- Marilyn noted that these elections are done by the GNSO councilors. Most members who have been around a long time understand that but the different constituencies both vote either under instruction or in free-form.
- Our constituency CSG representatives have typically voted under instruction after consultation within the CSG.
- The CSG obviously have nothing to do with vice chair elections from the contacted party house.
- Any member of the BC who is also active in the contracted party house is completely segregating their interaction from our house according to our charter.
- For us we have a vice chair for the non-contracted party house. Due to a long-term negotiation we agree to rotate the nomination process.

- Things were very contentious in the last round including an ombudsman complaint about how the process went down.
- The noncommercial stakeholder group will nominate a vice chair candidate for this round.
- Vice chair candidates obviously have to be elected councilors. We tried to create a more amenable, more collegial approach in working with the noncommercial house.
- Steve Metalitz from the IPC will be carrying forward an outreach to the other half of the house so that we can move forward.
- But the thing to understand is the noncommercial stakeholder house owns the opportunity to put forward a candidate.
- Wolf-Ulrich from the ISPCP has been a vice chair for two one year cycles so prior to that we had vice chair from the noncommercial house, Mary Wong.
- Marilyn noted that the CSG will be working on this topic and will keep the BC membership up to date and ask for inputs as information is disclosed from the non-commercial stakeholder house.
- It appears as though Jonathan Robinson will stand again, but in any case once the candidates are known, the Councilors will advise the group on their suggestions.
- Elections are taken by the post council.

ACTION ITEM: Marilyn asked Elisa to schedule a time with the GNSO councilors to discuss the chair and vice chair elections.

5.   Geographical Diversity – Elections

Elisa Cooper:
- Elisa reminded members that geographical diversity is not necessarily required for the GNSO Councilor position or the Nominating Committee seat, but it is desired.
- In the election procedure sent out by Benedetta it is stated that the candidate for the GNSO councilor position should be from a region other than the North American region.
- Elisa therefore reminded members that if after the close of the nomination period there isn't a candidate outside of the North American region, the Excomm can choose to extend the nomination period for another week.

6.   Policy Update and Open Comments – Steve DelBianco

Steve Del Bianco:
- Steve noted that he sent the policy calendar he drafted to the BC list and that he will highlight certain items on the calendar and try to coordinate a little bit of discussion on items that need action and items that need volunteers.

Collision Mitigation Proposal

Steve Del Bianco:

- BC filed strong comments on this item. ICANN staff posted a summary of those comments but included no analysis or recommendation.
- There was an expectation that staff would have analysis and recommendations on what to do about collisions with new TLDs today because the board's new TLD Program Committee, the NGPC, are meeting this afternoon on a conference call, and the item on their agenda is what to do about the collision proposal.
- Three BC members attended an event in Washington DC on October 1 on collisions – Anjali Hansen, Phil Corwin, Jim Baskin and Steve DelBianco. It was a full day event sponsored by new gTLD of the applicants. And they went through probabilities of collisions, mitigation proposals.
- Steve got up on multiple occasions and quoted from the Business Constituency concerns and comments on collision.
- The first point Steve made is that there are costs and consequences of collisions and those are more important than worrying about the probability or the parts per million as they say. If there are only 50,000 collisions over a two day period they're claiming that that's a low enough probability that the risk has been mitigated. If some of those 50,000 collisions occur in a business the costs and consequences become the whole story because if it happens to you the probability just went to 100%.
- Steve noted he believes that they understood the point that minimizing is not the same as mitigating.
- Number two, Steve asked the killer question that we had in the BC comments which is the staff plan says that the high risk strings -- those are corp and home right now -- and the indeterminate risk strings -- roughly 20% of them -- can simply move to delegation if they provide evidence to staff that they've reduced collisions to an acceptable level. That's in the plan.
- As the BC pointed out there's no process to determine what an acceptable level is especially once we're underway and the collisions had actually had consequences we really want to understand that.
- The answer Steve got was very troubling. A couple of the members of the panel said that as long as there were no more collisions than we had with .Asia they would assume that it was acceptable risk. So they're making everything relative to parts per billion, relative to previous delegations and they're not really worried about consequences.
- The final BC point Steve made was that we need a process to monitor the actual consequences -- business interruptions and costs. We might have to monitor how long it takes for businesses to change their internal system to stop referencing things like .mail. And we need a process for ICANN to require a TLD registry to block certain second-level domains that are causing collision potentially even to temporarily un-delegate a TLD if the collision's a significant problem. And that's likely to be the case with .mail based on Google's analysis.

Marilyn Cade:
- Marilyn noted that she is not an applicant, none of her clients are applicants, but she has strong concerns about collisions without actually being an affected party.
- Marilyn noted that the event that Steve mentioned was mostly comprised by affected parties.
- There are still a series of studies and analysis that indicate that there are risks and concerns. And for business users we typically need to be cautious and error on the side of limiting risk as oppose to introducing risk.
- Marilyn asked Steve if he can comment on the broader issue of the input and the public forum that indicate risks and additional research or indicate that there's no need for additional research.

Steve DelBianco:
- Steve responded that Marilyn used two keywords: they are discussing risks and concerns, and risk is a probability measure.
- In good faith the new TLD applicants and ICANN staff believe that managing risk is just getting the probability of a collision down to a level that we've seen before in other TLDs for two days of Internet day in the life of the Internet. And that's 50,000 queries.
- So they're looking at the word risk as probability and the word concerns that everyone is expressing are being translated to this notion of probability of risk.
- Steve highlighted that we have to change that conversation to talk about consequences. What are the consequences when a collision does occur in terms of business interruption and costs to remediate?
- This conversation has just begun and the only way forward is to come up with actual evidence of consequences. So we need consequences and we have to stop talking about probabilities because probabilities are irrelevant if you're one of those 50,000 collisions occur.

   ACTION ITEM: Steve will email the BC list once the new gTLD Program Committee discusses this issue on their conference call.

Call for Volunteers:

- Steve asked for volunteers to weigh in on the DNS Risk Management Framework Report.
- Steve asked for volunteers to weigh in on the consultation and the re-delegation of gTLDs.
- Marilyn Cade noted that both Scott McCormick and Jeff Brueggeman were involved in risk management.

ACTION ITEM: Steve will email Scott and Jeff about the DNS Risk Management Framework Report.

Draft Final Report on Protecting IGOs and INGOs:

Steve DelBianco:

- Steve noted this draft report refers to intergovernmental organizations and international nongovernmental organizations, like Red Cross and Olympics, so the beginning but they're just the tip of that iceberg since there are hundreds of other acronyms seeking the same kinds of protection at the top level and at the second level and not just new TLDs but all TLDs.
- Steve has already circulated what Elisa Cooper and Steve thought were appropriate responses for the BC. And for the most part they believe that the governments and IGOs and NGOs in terms of protections at the top level but do not agree that they permanently park as ineligible for delegation some of the strings in their list, examples like CAN, ISO SCO, ISC, ECO. Those are strings that we believe the nongovernmental organizations and governments can protect through right objections. And they need not add them to a reserve name list.
- Steve and Elisa submitted that for BC to consider.
- Steve asked members to reply with their comments, and eight members signaled support for the draft position Elisa and Steve drafted.
- Steve gave Marilyn an opportunity to explain her objection. Marilyn had noted the fact she did not support the idea of a blanket statement of objection although that's not what Elisa and Steve drafted.

ACTION ITEM: Steve asked for a volunteer to turn that table into an explanation, a textual comment. And that would be due by October 11.

Marilyn Cade:

- Marilyn noted that she agrees with the majority of the submitted comments but there were maybe three or four areas where she didn't agree.
- Marilyn does not believe the Business Constituency looks good or is actually effective to object to the idea that we want to charge government fees to find objections. If the objection criteria is transparent and validated, governments often cannot provide fees.
- Marilyn shared her concerns regarding a potential exclusion of governments, stating that they should instead focus on what the criteria is for the objection. Then, if governments don't have to pay a fee there's still a criteria we're in agreement with.

Study of WHOIS Privacy and Proxy Abuse:

Steve DelBianco:

- Steve noted that initial comments are due on the 22nd October so the BC still has some time but this is issue is critical to the BC.

- The BC was the most vocal advocate for this study, and the results that came back from the experts really verified the BC's suspicions that lots of bad actors do use privacy or proxy to avoid being identified both by the companies that are victimized and by law enforcement.
- This is a long report and it identifies many other things that bad actors do to avoid detection.
- So there's lots of ways to get around it and it's not clear yet what the implications are for further study by the experts or how policy would be informed. This is all part of something that John Berard has said many times at the GNSO Council: that we should make decisions on policy based on fact not on fears. And here we have a fact-based study.

ACTION ITEM: Elisa Cooper volunteered to help analyze the report and draft BC Comments for further study and policy implication.

ACTION ITEM: Steve will also reach out to Sarah Deutsch, Susan Kawaguchi and Jeff Brueggeman to see if they can assist drafting this comment.

Public Interest Commitments and the Dispute Resolution Procedure:

Steve Del Bianco:
- The comments are due on 23 October. The BC was really key to getting ICANN to require public interest commitments be enforceable as part of a registry contract.
- Steve noted that this issue is critical to the business interest of registrants and the customers who are the users and highlighted the importance on the BC submitting comments on this topic.

ACTION ITEM: Gabriela Szlak and Anjali Hansen volunteered to draft these comments.

Singular vs. Plural:

Steve DelBianco:
- Steve noted that the BC already has an active letter that is being circulated about singulars vs. plurals.
- Steve recommended adding to that letter a quote from the GAC advice from Beijing where they talked about consumer confusion. Steve also recommended adding a quote from the council letter suggesting that those procedures were not followed on string confusion.

7. Conclusion – Elisa Cooper

Elisa Cooper:
- Elisa concluded the call by thanking Steve for the work he did on policy and thanked members for joining the call.

- Elisa noted that there is another BC member call taking place in two weeks' time which will help the BC see where things stand in regards to all open items.

The call was adjourned.