

**ICANN**

**Moderator: Benedetta Rossi**  
**September 4, 2013**  
**11:30 am CT**

Coordinator: The conference is now being recorded. If you have any objection you may disconnect. And you may begin when ready. Thank you.

Benedetta Rossi: Thank you very much, (Fran). Good morning, good afternoon, good evening. This is the BC Members call taking place on the 29th of August, 2013.

On the call today we have Elisa Cooper, (unintelligible), Richard Friedman, J. Scott Evans, Andy Abrams, Caroline Greer, Steve DelBianco, Mark Sloan, Bill Smith, Angie Graves and Jim Baskin.

We have apologies from John Berard, David Fares, Ron Andruff, Sarah Deutsch, Jimson Olufuye, Gabriella Szlak, Celia Lerman, Anjali Hansen and Andrew Mack.

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

Elisa Cooper: Thanks. So I'd like to welcome everyone to this BC Member call. And I want to just take a few moments to cover a few items and then I'm going to turn it right over to Steve so that we can jump into our policy discussion because we have a tremendous amount of information to cover today.

Unfortunately I'm only able to stay for the first 30 minutes or so and then Steve has very graciously agreed to take the call over and to run the call so thank you very much, Steve.

So with that let's jump into it. The first thing I want to just remind members about is that there is a call out for volunteers for another one of these review teams and it's Competition, Consumer Trust and Consumer Choice Review Team.

And the applications for those - for those positions on that review team are due October 1. And I think we'll probably handle that the same way we handled the last review team is that any BC member that have interest in it should let us know.

And my feeling is that all applications should be forwarded and then they'll come back to us and likely will provide endorsements and let the final decision be made with the chair of the review team. So that is coming up; just a reminder on that.

The other thing I wanted to talk about is we do have a lot of policy issues right now but I did get us started on just a first draft of the charter amendments. And I don't necessarily expect for us to work on those heavily right now given that there's so much going on. I just wanted to get a first draft out. I think it'll take some time for us to review and amend and make those changes.

So I didn't want anyone to think that that was something that was moving quickly...

Marilyn Cade: Hold on. Hold on. Hold on. What changes are you talking about?

Elisa Cooper: The charter changes that we were working on.

Marilyn Cade: I don't know who - aren't you just connecting me to a conference call?

Elisa Cooper: Oh, Marilyn, it's Elisa.

Marilyn Cade: Oh, sorry.

Elisa Cooper: That's okay. So at any rate with that I just wanted to mention those two things. And then something that's just happened in the last day - and I know for a lot of companies that I've been talking to there's a great concern about this breach that occurred where some very large brand owners' names were redirected to a politically-motivated site.

And, you know, I would just encourage all companies to implement registry locking for their core domains. So for any domain that is being used for a Website, to support email, for any critical infrastructure, I would highly encourage you to implement registry locking which will make the domain virtually impervious to those kinds of attacks. And if there are any other questions about that I'm happy to answer those.

But that's what I wanted to cover. I really want to turn it over now though to Steve to get us right into our policy discussion.

Marilyn Cade: Right, Elisa, before we do that, it's Marilyn. Sorry to be late. But I think that's a fantastic advice from a provider but don't you think that maybe we should think about, from the BC, not a provider advice but how we address challenges like this and maybe we could park that and come back to it because this is a risk issue.

And I think we have really significant concerns about risk. And maybe we could park that comment and issue and come back to it later under (AOB) if that's okay?

Elisa Cooper: Sure. I'll let Steve run through that since he is not a provider. And he'll be running the call at that point anyway so that sounds great. So why don't we turn it over to Steve?

Steve DelBianco: Folks, I sent around a policy calendar that I thought would be helpful on today's call. If anybody has not received that indicate in the Adobe Chat or let me know on voice and we'll resend it.

First item on the agenda is to dive in to finish up what I hope would be the very last round of discussion on our Expert Working Group comments with respect to directory services, the replacement for Whois.

This morning we had a round of comments from Google that focused on some changes that Marilyn Cade made to the draft. And I guess it would be great to get this sorted out now. Andy, you're on the call. Marilyn, you added the expression, "Link to commercial service," and I don't support that. I don't know exactly what was behind it. If you are able to explain that we could reconcile very quickly and maybe and hope to get consensus on this call if we can.

Marilyn Cade: Steve...

Steve DelBianco: Aparna is not on but Andy Abrams, are you on the call as well?

Andy Abrams: Yeah, I'm on and Aparna is on as well. I think she's going to chime in on this issue.

Steve DelBianco: Oh excellent, excellent, excellent. And I realize there may be other...

Aparna Sridhar: Hi there.

Steve DelBianco: ...issues - there may be other issues as well. So I don't mean to indicate that the only issue is this link to commercial, right, I don't mean to indicate that that's the only thing remaining but it's one that I wanted to focus on quickly and get it out of the way. Marilyn, do you want to state your case for that and then I'll go to Google to...

((Crosstalk))

Marilyn Cade: Well, Steve, I actually want to make a different case. We can't use the BC calls, which are limited in participation, to make decisions. We can discuss and the good news is we're being transcribed. But let's be very careful that we're not proposing that we're just going to make decisions that exclude those who aren't on the call. So in...

Steve DelBianco: That's right. That's right, Marilyn. I guess I have been around the block a little bit on running policy for the BC. So what I would do after the call is circulate the draft for even though who are not on the call and they'd have an opportunity to comment so I'll promise you that; we won't make a final decision on the call, okay?

Marilyn Cade: I appreciate that. But I think you need to be really careful at that - we're not excluding - and I really appreciate Google's comments. But let's not move without due consideration of those who aren't able to be on the call. I saw a long list...

Laura Covington: I don't think anybody's going to do that. I think that this is just the opportunity to...

((Crosstalk))

Laura Covington: ...talk about it. We've got to talk through it with those of us who are able to be on the call. So I appreciate Steve's, you know, efforts and the good intentions of everybody to make sure that everyone gets a chance to weigh in before a final decision is made. But let's go ahead and talk about it.

J. Scott Evans: Yeah, I'm with Laura here. I'm tired of spending all this call raising procedural issues; let's talk about the substance. We all know what's going to happen. This'll be circulated to the list, Marilyn. So if you would just pipe down a minute and let Steve proceed I'd appreciate it.

Marilyn Cade: Excuse me, let me just - I don't think pipe down is the right comment. I was asking - and I feel reassured that we will be including all of the comments. There's not actually that much disparity, I don't think.

Steve DelBianco: The disparity arose when I circulated the draft, and I laid this out earlier, I circulated a draft which tried to be responsive to David Fares's concerns about the, you know, this distinction between commercial and noncommercial with respect to place - an ability to use proxy and privacy services.

After that we thought we had reached the grand compromise because at that point there were no objections to the current comment. Marilyn, then you came in and put "Linking to commercial sites," and broadened the reach of those who would be ineligible for privacy and proxy. That provoked then a response from Google and...

((Crosstalk))

Marilyn Cade: Right. But...

Steve DelBianco: ...try to get that done, right, let's try to get that discussion on the table now.

Marilyn Cade: Okay. So...

((Crosstalk))

Marilyn Cade: So without being so negatively emotional let me just say that, you know, look, many sites link to commercial sites. And when they do that I think they actually make themselves commercial in nature.

And that's certainly what the - if we were to just take as an example the fact that the DotDE registrar has taken. In the registrant who links to commercial sites lose themselves into a commercial strategy and category.

I just think we need to understand that non commercial is not that - is not that clear. And many parties, just thinking about us, the BC, many of the parties who are members of the BC are actually registered in DotOrg as their registrant space. But they are clearly about commercial space. It's just not so simple. That's the only point I wanted us to talk about.

Steve DelBianco: Would you be willing to withdraw the words, "Links to commercial site."?

Marilyn Cade: No.

Steve DelBianco: Okay...

((Crosstalk))

Steve DelBianco: ...then I'd like to take a queue on that reaction then because, I mean, words matter here. And what we had was a relatively simple definition that says that they accept advertising, sell goods and services or accept donations. It's the addition of, "Link to commercial sites," that provoked a reaction from Google and some others this morning.

So why don't we take a queue on that and then Marilyn can...

J. Scott Evans: Can we hear Andy's - or Google's other side just for those that...

Steve DelBianco: That's right.

((Crosstalk))

Steve DelBianco: Andy and Aparna please.

Aparna Sridhar: Yeah, this is Aparna. So I just want to highlight a couple different issues with the commercial versus non commercial distinction. I think it's true we responded most recent - to the most recent change by Marilyn. But I just want to step people through a couple different concerns.



Because I think we agree in principle on the distinction between commercial and non commercial being a relevant and important one. But I think if you play out some of the text with examples you find that the text itself sometimes leads to results that we might not think are desirable.

I'll start with commercial sites because that's the one we've been talking about. You could imagine a site, like a Mommy blog, right, and the mom - it's a mom who runs a blog and she, you know, reviews kids products, strollers, let's say. She might put a link to the site for the stroller on her blog.

Does that automatically make the site a commercial site such that she would have be ineligible for privacy and proxy services? I don't know, that seems like kind of a stretch to me.

Same with let's say you're a political blogger and you put in a link to some coverage on Syria in the New York Times. Does that make you a commercial site? Again, that seems like a particularly difficult stretch.

Accepting donations, I mean, I think that really blurs the line between commercial and non commercial. Donations are, per se, usually used by NGOs and entities that don't operate at a profit. They may sell things but they are typically not engaged in a profit making enterprise. That one maybe is a little bit different. But I'm just trying to play these things out.

You know, I think there's also some concerns about using text like, you know, people who deserve protection are only those who are the subject of unjustified prosecution for political activity. I really don't think we, in the BC, can determine what unjustified prosecution for political activity and prosecution for political activity especially in a context where we have very different legal regimes all across the world and different criminal regimes.

Many of which - you might find yourself in the circumstance where the prosecution is legal but it is not, in fact, what we would consider justified. And who makes that determine is a really complicated question.

So I think what I would encourage, if you're willing to consider it, is something that says we think the distinction between commercial and non commercial is important. We think that there needs to be further conversation in the community about how we detail the nuts and bolts of that.

But recognize that not everyone may share these views. But I really appreciate the ability to share them with you and take questions or comments.

Marilyn Cade: And - and...

Steve DelBianco: Aparna, it's Steve. Let me ask you one quick question. If the mommy blogger was being paid for every link to that stroller ad do you see that as a distinction or of her simply endorsing a particular stroller?

Aparna Sridhar: I mean, possibly. I think this is - this goes back to actually what Marilyn said earlier which is this is a really hard sort of line to parse. And I don't think, you know, like it's hard to say what if she gets like 5 cents from it but she's a billionaire; does it - like, you know...

Steve DelBianco: The text matters though - the text as written would only have captured a commercial activity if, in fact, she received compensation for the advertising.

J. Scott Evans: Right and...

Aparna Sridhar: No that...

((Crosstalk))

Steve DelBianco: A link to the New York Times would never have been covered.

J. Scott Evans: Yeah, this is J. Scott. I see Aparna's point of view but, you know, the percentage of her income is not - we're never going to get into...

((Crosstalk))

J. Scott Evans: I mean, the court...

Aparna Sridhar: Right, that's my point is that it's difficult to understand where there's an economic motivation or not.

((Crosstalk))

J. Scott Evans: I think if you get 5 cents and you're a quadrillionaire it's still paid for an advertisement.

Steve DelBianco: Right and...

((Crosstalk))

Steve DelBianco: Yeah, and this is all tied to whether or not the consumer protection authorities of a given legal regime, not just the US, whether they perceive that it's necessary to be able to track specific identity of someone who is accepting money. And it doesn't really matter how rich the person is...

((Crosstalk))

Steve DelBianco: ...or whether they're accepting the money for donations or for commercial purposes.

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

Steve DelBianco: And then - just a second there, Marilyn. Is David Fares on the call as well or Janet? Okay so David and Janet are not on the call so, Aparna, they won't be able to react I guess to this unjustified prosecution part. We'll have to handle that on the list.

Marilyn...

((Crosstalk))

Man: ...I'd like to get in the queue as well.

Steve DelBianco: Okay.

Marilyn Cade: I'm sorry, who else?

((Crosstalk))

Steve DelBianco: I think I heard Bill Smith.

Marilyn Cade: I don't want to get in front of anybody else, Steve.

((Crosstalk))

Marilyn Cade: Somebody else...

((Crosstalk))

Marilyn Cade: ...be in the queue? I'll wait. It's Marilyn.

Aparna Sridhar: Hey, Steve, when you have a moment I'd like to get back in the queue.

Steve DelBianco: Sure, Aparna. So, Bill Smith, did I hear your name?

Bill Smith: Yes.

Steve DelBianco: Okay, Bill Smith, go ahead.

Marilyn Cade: Fantastic. Okay.

Bill Smith: Okay. So I think the - as Google has said, right, a distinction between commercial and non commercial I think it's appropriate. I think it's, you know, there is precedent in many jurisdictions for making a distinction on these things.

What that specific distinction is making it an international scale will be extremely difficult. And so I also agree that therefore we're going to need further discussion. And it's probably going to have to go beyond the BC. But in my opinion the BC's comments on the (EWG) should be more, you know, in line with, yeah, the distinction between commercial and non commercial would be a good thing.

What that distinction or how that distinction is actually made needs to be discussed and determined. And it may be that those distinctions are going to have to be different, in different regions of the world. Okay?

Steve DelBianco: Yeah.

Bill Smith: The - stating a link to a commercial site, however, I object to because as Google has pointed out there are any number of reasons - valid reasons - for pointing to commercial sites as references. Whether you're paid or not that may be something that needs to be discussed in the community. But putting it into our comments at this point is basically saying, yeah, if you link the BC says you're a commercial site. Don't agree with that.

And also on the unjustified this too it becomes an issue when you attempt to do things at international scale. There is no way to determine what is justified or unjustified. And also the exceptions or national security, public order and, you know, health, etcetera, that are typically in these international instruments, they're major loopholes, okay? And the world knows it.

So pointing to them in fact doesn't really do much. In my opinion it'd be better just to speak of freedom of expression and leave it at that. Let the words speak for themselves.

Jim Baskin: This is Jim Baskin. If I could get in the queue at some point also? Thank you.

Steve DelBianco: So I have Aparna and Jim. Aparna's gone once already; Jim, why don't you go first?

Jim Baskin: Okay. Just to - just briefly the idea of maybe having different rules for different geographic areas is problematic to me. Maybe it's something we can work around. But we have so many instances of where national laws or regional rules trump other things and it just drives the business crazy.

I mean, you know, people that can't do something in one geographic area just move their business to another one whether it's a registry, I mean, a registrar or whatever. You know, if we got different rules for different places they just go wherever the rules suit them. And that's counterproductive. But I don't know how we deal with it.

Steve DelBianco: Good point. Aparna.

Aparna Sridhar: Sorry. Thank you. I just want to direct you all's attention to the text because I think, you know, my interpretation of it is literally on Page 2 the BC would designate domain names used in connection with the Internet, fine, that dot, dot, dot link to commercial sites as a commercial site. So as the text is currently written I think it is over-broad.

Steve DelBianco: We understood that from your previous comment and Bill Smith agreed with you as do I. We could take a poll on that but it wouldn't be complete with respect to this call.

Aparna Sridhar: Sure. And, I mean, obviously we raised a number of other things as well.

Steve DelBianco: Right. Marilyn wanted to be in the queue to go last but keep in mind that we were not asked by the Expert Working Group to specifically lay out the rules about who can and who cannot use privacy and proxy. We anticipate that that will end up being a vital distinction in the future of whatever happens to Whois. And we know it's really important for the new RAA because they've created an entire certification process for privacy and proxy providers.

So the BC could - and this would be my proposition - the BC could repeat its long-held position that that distinction between commercial and non commercial is very important with respect to the eligibility of privacy and

proxy. We can suggest that certain activities are obviously commercial such as the acceptance of payments; the payment for advertising links.

We could go on to discuss that it will take a broader discussion to determine how to draw that line and whether ICANN would have a single regime that would cover all national law or not. And we can discuss it but we do not have to come up with a final definitive position in this document; this is an early-stage document for the Expert Working Group. And they had not asked us to provide definitive language.

Now having said that, I too am uncomfortable including the words, "Link to commercial site." I believe that takes us way beyond where we wanted to be and it would be my desire that unless Marilyn can come up with some other justification that we would pull that out in our next draft.

Marilyn, I guess we'll go over to you.

Marilyn Cade: You know, Steve, I'm trying to think about how I say this. If the will of the broad base of the business user community that is the Business Constituency wants to move in one direction or the other then that's where I am as well. And I'm saying that with a kind of a call to action for understanding any positions that we take.

If my comments were an effort to narrow, not broaden, they seem to be perceived by some parties as broadening, not narrowing. So, you know, we need to figure out what ICANN can do that is achievable, affordable, measurable, accountable.

I'm okay if the rest of the BC wants to move in the direction you're proposing; that's the BC position. I got it.



Steve DelBianco: Great. Appreciate that. Aparna and Andy, let's see if we can wrap this up quickly. You had some other items in here with respect to the comments. And if I'm going to do another draft after this call for everyone to review we'll have to get back to David Fares and explain to him the discomfort with unjustified prosecution. I will try to restrict expansion to commercial links but I did want to see the other items that you have in here.

So, Aparna, I'm looking at you and Andy's email to see whether there's anything else in there that needs to be covered. I guess it was the centralization providing a risk point.

And this is the subject of the discussion that J. Scott, Bill Smith and many of us had about two weeks ago which is let's acknowledge the centralization, while it increases standardization, becomes a larger target for vulnerability.

And I think that the BC...

Aparna Sridhar: Okay.

Steve DelBianco: ...tried - we tried our best in the actual text to suggest that the SSAC, and that's the group at ICANN that's supposed to look at this, we suggested the SSAC would have to do an extensive assessment of the security concerns before we move to a centralize.

So it feels to me like we acknowledged that concern. I know it wasn't fully to the extent that Bill Smith and PayPal would like. But we did suggest that it had to be studied first and it was a critical path item. Would that not satisfy your concern?

Aparna Sridhar: I mean, I think we just wanted to raise it as an issue again. And, you know, I think instead of saying some have criticized the central ARDS model I think possibly if you would be willing to consider some in the BC have questioned whether the centralized ARDS model is too big and therefore vulnerable. But we won't stand on ceremony over it.

Steve DelBianco: Well that would be a much better phrasing. Let me ask you and Andy to give us a few sentences and so that it doesn't seem as if some have simply criticized.

((Crosstalk))

Steve DelBianco: But to be more specific than just a question and literally suggest...

Aparna Sridhar: Yeah, so...

((Crosstalk))

Steve DelBianco: ...that some in the BC believe that the concerns of vulnerability may exceed the benefits of centralization, for instance.

Aparna Sridhar: Yeah, exactly. I'd be totally comfortable with language around that.

Marilyn Cade: Steve, it's...

Bill Smith: Yeah, I would support that.

Marilyn Cade: Can I get in the queue?

Steve DelBianco: You would support that, Bill, as well?

Bill Smith: Yes.

Steve DelBianco: Okay.

((Crosstalk))

J. Scott Evans: I would support it as well.

Steve DelBianco: Thank you J. Scott. All right so that puts me in a position, I think, to turn around another draft probably in the next day or two.

Marilyn Cade: Steve? Steve, can I get in the queue?

Steve DelBianco: Sorry, Marilyn, go ahead.

Marilyn Cade: Thank you. I'd like to see the language before I agree to it but I think it's moving into a more moderate direction that I could support.

Elisa Cooper: Steve, this is Elisa. I wanted to let you know that I need to drop off now so thank you so much for running the rest of the call and I'll look through the transcripts. So thank you so much, Steve, and thanks, everyone else, for joining.

Steve DelBianco: Okay thanks, Elisa. We'll wrap - we're done now with the discussion of EWG. And I guess it's on my plate to circulate another draft. Let's move to the second item.

ICANN has solicited public comments on whether to postpone the GNSO review. And reply comments close next week on September the 6th. We didn't

have any volunteers to suggest something on that on our last call; at least I don't recall. Does the BC have a position about deferring GNSO review or would we like to lob a position in? Take a queue on that.

Marilyn Cade: So, Steve, it's Marilyn. Can I just give a historical update?

Steve DelBianco: Yes, go ahead please.

Aparna Sridhar: And then, Steve, I'd love to jump in the queue super quickly.

Steve DelBianco: Go ahead, Marilyn.

Marilyn Cade: So this is Marilyn. I don't know who the second person was?

Steve DelBianco: Go ahead, Marilyn.

Marilyn Cade: Okay. I just need to make sure everybody's identifying themselves for the transcript. We did submit a comment a couple years ago maybe - I'll have to go back and look at this - saying we thought it was premature to advance major changes. So we should go back and look at why we said that and assess what has changed since then for guiding our future statement. Thank you.

Steve DelBianco: Aparna.

Aparna Sridhar: This is Aparna from Google for the transcript. Just wanted to let everyone know that we filed a comment in this proceeding encouraging that the GNSO review not be postponed. The filing is really short. I'll be happy to share it with you.

I would think that perhaps folks would share an interest in expediting the review. Just for your information the last review started in 2006 and implementation was not substantially complete until 2012 is my understanding. So this is a long process. A lot has changed since 2006.

And, you know, I'm not - we're definitely not prejudging whether there should be changes or not. What we are saying is that it makes sense to kick start it.

Steve DelBianco: Anyone else in the queue within the BC feel strongly one way or the other about whether we should support deferral of the GNSO review?

Marilyn Cade: So, Steve, I'm just going to - it's Marilyn. I just want to come back on a bit of more factual stuff after what I said, okay?

Steve DelBianco: Sure.

Marilyn Cade: But you need to - anyone else?

Steve DelBianco: Marilyn, please go ahead.

Marilyn Cade: So the GNSO Council did a self review and published that and called for a number of changes. That was a very, very helpful process. And changes were implemented and made certain improvements in the GNSO policy council work.

The - a GNSO review is a GNSO review. That we just need to make sure everybody understands that is the review of all of the constituencies, their roles, their functions, the house alignment. That's not just the policy council.

The policy council and the policy PDP process is being reviewed in a different - oh gosh, I'm trying to think about what the timeline is here. There is a Board ordered - a Board-supported - ordered is the wrong word - Board-supported PDP process that's related to gTLD policy development.

Maybe we should sort of identify for the next call what the various processes are for a GNSO review part of which is about us as constituencies and SGs, houses, and part of which is about the policy council and the PDP process. That might be really helpful.

Steve DelBianco: Marilyn, I think those are facts about the substance of the review and I don't really believe that's the question before us. The question before us was simply whether to follow what has become staff's recommendation to defer the beginning of the review.

Marilyn Cade: Oh actually, no, Steve.

((Crosstalk))

Steve DelBianco: I'm going to make the ruling that we don't have strong feelings about deferring or doing it now and that the BC will probably not file a comment independently on this. We allow members, of course, we encourage members to file independent comments if they have them.

But in the interest of moving on in the agenda - and there's no interest - I think in the BC to file a comment on this. So I was going to leave this one along. I'll give you the last word.

Marilyn Cade: No, I support that. I just was thinking more information could be helpful in the future.

Steve DelBianco: Understood. And we will be barraged with information once they start this review if you remember with the London School of Economics and everything that came out of it it was amazing.

Folks, let's move to the next one which is the BC comment on...

((Crosstalk))

Steve DelBianco: I'm sorry, go ahead.

Bill Smith: Yeah, this is Bill Smith, PayPal for the transcript. We support moving forward on this review and think the BC actually should submit a comment. It's time, as, you know, it's been since 2006. And ICANN needs to look at itself to determine how to become more effective.

Steve DelBianco: So I have two folks on this call so far - and I know we don't have a full quorum - and that would be Google and PayPal who felt that they should move forward. Marilyn gave factual background. Are there any comments, pro or con, with respect to that?

Marilyn Cade: Steve, could I maybe - it's Marilyn - maybe Bennie could do a - the Secretariat could do a sort of a straw poll because right now maybe we could advance this by sending out information about why the Board is proposing delaying and then we could figure out how to justify any change.

((Crosstalk))

Steve DelBianco: My - I think that's a completely reasonable thing to presume. But what I'm also conscious of is the other four more substantive concerns to the BC...

Marilyn Cade: Yes.

Steve DelBianco: ...for which it's hard enough to get people to pay attention to the draft, it's hard enough to get volunteers to finish and circulate in time...

Marilyn Cade: I fully support that.

((Crosstalk))

Steve DelBianco: Given that full plate of items this falls so low on the priority list...

Marilyn Cade: Right.

Steve DelBianco: ...that without a groundswell of support you can see why I would be inclined to leave it alone.

Marilyn Cade: I fully support that. And your groundswell of support could be people could provide their individual comments. I move...

((Crosstalk))

Steve DelBianco: That's exactly right, Bill. Right, Marilyn, Marilyn, I'm agreeing with Marilyn that Bill, I would encourage you to follow Aparna's lead and please on behalf of PayPal, a worldwide brand, submit your comments before September the 6th. Okay?

Bill Smith: We may do that. I'd also, again, for the record, like to express my disappointment that the BC won't take a position on this.



Steve DelBianco: Right.

Bill Smith: We see this as an extremely important issue for ICANN. Thank you.

Steve DelBianco: And, honestly, Bill if more BC members shared not only the view that it was important but shared the view that it should not be deferred the BC would go on. And so your disappointment is one that's reflected in the fact that here hasn't been any interest on this even though I've had it on the last three policy calendars in a row. This was sort of my last bite at the apple.

Let's move on to the next one which is the locking of a domain name. And I thought we were done with this. It's a very brief comment where the BC endorses, for the Board, to please accept the recommendation on the locking of a domain name that is subject to a UDRP or a Uniform Dispute Resolution Process.

This was a PDP that we participated in and had a lot of leadership in the drafting of it. There is a second item - the second attachment that I circulated, which Elisa Cooper had prepared, again a very brief comment. Marilyn, you and I just talked the other day and you said you might want to suggest a comment on that. But let's try to finalize that on this call if we can.

I'll take a queue on the BC's draft comments on locking UDRP. Anyone in the queue?

Marilyn Cade: Steve, I just want to clarify, actually it's Marilyn. My comments were not about locking; they were about the other two comments. So...

Steve DelBianco: Great.

Marilyn Cade: ...no comment from me on locking.

Steve DelBianco: Beautiful. So the BC is going to submit a comment that says that we support - we urge the Board to accept the recommendations and as stated in the final report we think the proposed recommendations will have a positive impact and we agree that clarification and standardization of the procedures is necessary and beneficial. That's great. So that one's off the list.

The next up on our agenda, which is name collision risks. And this one has really gotten interesting because as you know the ICANN staff took the Interisle report that we discussed in Durban and has moved in a very aggressive direction by suggesting that they have a mitigation plan.

So staff came up with a mitigation plan. And it has some rather interesting recommendations. They'll defer completely DotCorp and DotHome for some 20% of names for which they cannot calculate risk they're going to defer the signing of contracts. But all other contracts would be able to proceed.

Elisa Cooper volunteered on our last call to draft the very first cut at what BC comments were. Other volunteers included J. Scott, Marilyn and myself. And that's why I circulated, on Monday, Elisa's first draft which is the opportunity to comment on that.

So I'll take a queue on - this is the third attachment to my policy calendar and it was Elisa's first draft on name collision. Aparna, I still see your hand up; are you first in queue her?

Aparna Sridhar: No, it's a legacy. Sorry, I'll take it down.

Steve DelBianco: Legacy, okay.

Marilyn Cade: And, Steve, it's Marilyn, I'd like to be in the queue.

Steve DelBianco: Marilyn, please.

Marilyn Cade: I'll send comments in. I had volunteered to co-draft. It was amazing to me, I didn't actually be included as a co-drafter but that's okay. But I do think in the future we need to understand that when members volunteer to be co-drafters, they need to be treated as co-drafters. So I want that to be in the record.

And also to note that any volunteers are volunteering as members, not as officers or in any other position so just to make that clear. I volunteered as an individual member.

I will submit the comments that I already drafted to the team that volunteered to be on this. But I'd like to speak to this very quickly. I think that actually the BC comments, as initially drafted, are not strong enough or clear enough that collisions are significant problems for those who run recursive servers.

And that is far beyond the list of those who are being contracted parties or applicants to be contracted parties. But collisions present a huge problem to the rest of us. I'm just - I'm not even looking at who's on the call from the BC.

But, you know, I think coming up with a mechanism that is more than I send you an alert and it's up to you, figure it out for yourself, we don't - we need to, as business users, we need to encourage ICANN to be more accountable for unintended consequences of the decisions they're taking.

The report is very helpful. But I think we need to go beyond that and say ICANN needs to do a little more than just saying here's an alert, it's up to you,

blah, blah, blah. It could be there's no significant harm but if there is harm it's going to affect business users; those who run networks and operate recursive servers, not primary servers but recursive servers. And that, I think, is not captured in our present draft.

Steve DelBianco: Let me turn to J. Scott to add on Elisa's initial drafting.

J. Scott Evans: No, I don't have anything to add. I'd be curious to see Marilyn's draft and/or revisions - suggested revisions to the text that we have today.

Steve DelBianco: Thanks, J. Scott. If any of you have been following the name collision debate - the initial comment period closed to two days ago so there's quite a few in there. It's really drawn down to two sides so those who want everything to continue quickly or disregarding the process and disregarding the recommendation of any delay even for the 20%.

There's not even - there's not even a general acceptance that Corp and Home ought to be indefinitely deferred. So the new gTLD applicant group, the Registry constituency group are strongly in favor of continuing and not wanting to even park the 20% (where) uncalculated risks.

So this is becoming a very controversial issue; one in which there are now challenges to ICANN for doing what they call a staff-driven process that didn't necessarily follow the recommendations of the report and that may have violated the Applicant Guidebook.

I say all this to indicate that the BC ought to get its comment in as soon as we possibly can and be as specific as we can be on the impact on business users and business registrants.

And, Marilyn, if you can describe for all of us - put it in writing please about those who run recursive name servers who are among the community represented by the BC, that also would be very helpful because it would be a specific instance.

It'd be my opinion that the BC should focus on how it is unjustified to shift risks and to create risks, economic risks, for the Business Constituency community when there is significant documentation by the SSAC and by Interisle that genuine risks are included.

And maybe the BC needs to comment on the fact that when the collisions occur and systems fail it is our members who have to spend the money to remedy those situations. And it will often involve our customers, our business partners and our employees. And in the case of those who run a recursive name server a whole another class could be impacted.

So I will try to be - I will try to be insistent we get this done quickly. Marilyn, can I get a commitment from you for the new language in the next day or so?

Marilyn Cade: Yes, I have initial draft language to send out to everyone. And it is very high level. But this whole issue of negative externality, Steve, that you've just identified, you know, and I'm - I'm going to say this for - it doesn't matter that anyone who is a BC member is also an applicant.

That's not really even an issue here. Move that aside because those parties have clicked the box that they're not going to advance their concerns about being an applicant in the BC.

Their role in the BC is actually in this space of being affected by name collisions. So I'm ignoring any - I'm just assuming there are no conflicts since those are all off in some other part of ICANN.

I'm assuming we're talking about the concerns about name collisions in operating internal and external networks. And I think that's the (unintelligible). That's what my comments are going to address if that's okay.

Steve DelBianco: Great. Thank you. And then, J. Scott, and all will be welcome to comment on it quickly. And I will try to move it along so we get it in well before the end of the reply period.

((Crosstalk))

Steve DelBianco: Any other comments on name collision? Go ahead.

Jim Baskin: Steve, it's Jim Baskin. My hand's been up on the Adobe.

Steve DelBianco: Sorry, Jim. Missed that. Missed that, go ahead please.

Jim Baskin: No problem. Verizon has - did submit some comments or some proposed new wording for the draft - for Elisa's draft. And that came from Sarah Deutsch. And I hope everybody saw that.

I - we are taking - Verizon is taking a very careful look, a very - trying to do a very thorough look at what the issues are. And we're - one of our concerns is that there's been some misinterpretation of the Interisle results that they didn't really state that something like 80% of the names that were being proposed are not potentially problematic and that 20% are (unadvocated) level of risk.

They indicated that they observed volumes of queries for certain, you know, higher volumes of queries for some of the proposed domains and lower for others and they tracked them all.

But they were very clear to say that the frequency of appearance of those domain names, those proposed domains in current queries, is not a proxy for the severity of the risk.

Marilyn Cade: Right. Right.

Jim Baskin: And in fact the 20% is not a safe way to segregate the risk. The other 80% could contain many high risk strings.

Marilyn Cade: Right.

Jim Baskin: So we have to be very careful that we don't just push this off and say okay everything's fine because they've already decided to temporarily segregate the 20%. It isn't that simple. So...

((Crosstalk))

Steve DelBianco: I don't see that in the queue so I'm going to ask you to circulate that to the list again. Maybe it's just me that missed it but I didn't see it in the queue.

Marilyn Cade: Steve, it's Marilyn.

Steve DelBianco: Yeah.

((Crosstalk))

Steve DelBianco: Marilyn, I'm going to move ahead. I have used up way too much time again.

Marilyn Cade: Okay.

Steve DelBianco: I've let it happen again and I end up crowding out Chris Chaplow and others who have other things on the agenda. We are going to - I'm not going to conduct a discussion on the rights protection requirements. This was the fifth item. Initial comments were due by the 27th of August but we have until the 18th of September for reply comments.

Elisa drafted those. It's the fourth attachment. These are more substantive and Elisa did draft them, I believe, with, you know, the BC perspective in mind but she is also running a - works at a registrar that has specific knowledge of how to run the RPM requirements. And that means that Elisa's initial draft is highly specific. It deserves the attention of everyone on this call.

J. Scott, you, Marilyn and I had all said that we would help to review those. So, please, after this call let's review that fourth attachment from Elisa and provide some comments so that the BC can get those in.

The sixth element on here was the charter amendment process. We're not going to have time for that. I'm going to skip to the geographic indicator debate. J. Scott, this was something that you began and we discussed it extensively on August the 8th. You and Stéphane and Sarah were looking to circulate a letter. And if you did, my apologies for having missed it. Is that something you guys are still planning to do?

((Crosstalk))

Laura Covington: Yeah, I think he stepped away for just a second, sorry.



Steve DelBianco: Not a problem. So we'll leave - was that you, Laura?

Laura Covington: Yeah.

Steve DelBianco: Yeah, do you know whether J. Scott still wants to move ahead on that or not?

Laura Covington: I don't know, I'm sorry.

Steve DelBianco: Beautiful. When he comes back in have him just cut in because I'll just wrap up now...

Laura Covington: Sure.

Steve DelBianco: ...to suggest that Phil Corwin, are you on the call right now as well?

Phil Corwin: Yes I am, Steve.

Steve DelBianco: So, Phil, I wanted to give you the floor to pick up on the last policy item. We've got to leave some time here for Chris Chaplow so take no more than five minutes, please, to talk to us about...

Phil Corwin: Yeah...

((Crosstalk))

Steve DelBianco: ...standardized contracts.

Phil Corwin: The draft letter circulated last night. This is an issue I raised in July. Steve suggested I prepare a draft for the BC. The BC has been on record since 2010 that ICANN - and this was in recognition of the reality that more UDRP providers would probably be accredited in future years particularly in various regions to be more convenient, deal with local scripts, all of that.

Excuse me. Anyway, the BC has been on record for three years in favor of a standard mechanism for establishing uniform rules and procedures and flexible means of delineating and enforcing arbitration, provide a responsibility for the UDRP.

We reiterated that position this spring when we took a position basically in favor of the accreditation of the Arab Center for Dispute Resolution as a UDRP provider.

On July 19, which was the day after the Durban meeting ended, basically when people were going home and there was no indication and advance from ICANN that statement like this is being prepared. There was no Board review, there was no request for public comment.

ICANN putout a so-called status report on uniformity process for the UDRP in which it took a very strong position that it opposed contracts of any kind of UDRP providers because somehow that would make it more cumbersome to discipline them and make sure they're implementing UDRP in a uniform way.

I don't understand the assertion. ICANN only - it's only enforcement powers are their contract. Certainly the trend with both registries and registrars has been to add more complex contracts with more flexible means of enforcement.

We saw in 2007 that just having termination as an option for registrars was not good, that they needed intermediate steps when a registrar was misbehaving and that was in response to the RegisterFly situation.

The ICANN status report also takes - they were dealing with the fact that URS providers are under an MOU, which is - they're now characterizing as a contract, it's a very brief contract. I don't think it's satisfactory from a personal viewpoint, it's a two-page very general statement. But they were faced with, you know, the issue of why some type of contract for URS providers but not for UDRP.

And their explanation, their justification, was that the UDRP is pursuant to a policy but the URS is not pursuant to a policy which is actually an incredible statement and totally at odds with the...

((Crosstalk))

Steve DelBianco: Phil. Phil...

Phil Corwin: ...on trademark plus 50. So anyway the letter asks a series of questions asking for clarification of positions...

Steve DelBianco: Right.

Phil Corwin: ...taken by ICANN in the report. I'll stop there. I don't expect a decision today. But that's the background on the letter.

Steve DelBianco: Phil, I reviewed your letter again to see that it was consistent with previous BC positions. I also checked to ask that you run it by other BC members that are active as UDRP and URS providers. I'm satisfied that you did both of

those things. So as policy coordinator I'm prepared to recommend that our chair send this letter to Fadi and to Crocker because the letter, again, it seeks clarification.

So if there's going to - I will circulate that via email. I will circulate that recommendation via email to the full BC to see whether there are any further edits before the letter even goes in. So thank you for your effort on that, I think it's a solid effort.

Phil Corwin: Well thank you very much, Steve, I appreciate that.

Steve DelBianco: Good.

J. Scott Evans: Steve, I'm back. This is J. Scott.

Steve DelBianco: Thank you, J. Scott. The question was do you still want to do a geographic letter that we discussed on our last call?

J. Scott Evans: I'm sorry, I'm blanking.

Steve DelBianco: Okay, on the last call you felt strongly that the BC ought to come up with a letter expressing concern about the geographic names consideration. And this of course was the Amazon/Patagonia issue...

J. Scott Evans: Yes, I still do.

Steve DelBianco: And I asked whether you were going to work on something that Stéphane and Sarah - should we be looking for that in the weeks ahead?

J. Scott Evans: Yeah, I'll get - I'll try to get it to you next week before I leave.

Steve DelBianco: Okay. That's fantastic. Thank you. The only other item I had on here was singular and plural. Before I jump to that I had hoped we would address Chris Chaplow's rather detailed exploration of ICANN's new policy tools. But, Chris, I don't see you on either the phone or the Adobe list...

((Crosstalk))

Chris Chaplow: Yeah, I'm here, Steve.

Steve DelBianco: Are you on the call? Fantastic.

Chris Chaplow: Yeah, Steve.

Steve DelBianco: Thank you. So, Chris, you did a great deal of work on that and I wanted to give you the final few minutes here to explain to our colleagues what's going on and whether you think we need to take some action.

Chris Chaplow: Okay thanks, Steve. Yes, because I don't know if others members like I noticed that we're sort of being bombarded by all these ICANN labs, ICANN round table, ICANN (unintelligible), ICANN passports and wondered what on earth still was.

So in order to try and sort it out for myself I explored around the ICANN lab site and I just thought it'd be interesting just for the members just for me to just to give a quick overview of what all this is.

((Crosstalk))

Steve DelBianco: We could read the overview but tell us your conclusion. Do you think this is an off track, top down, what is your overall impression about the whole new labs?

Chris Chaplow: Well it's certainly a staff initiative. It's certainly driven by Fadi, managed by Chris Gift with the help of a consulting company called (Neo). It really - it is an experimental platform. And I think the proof of the pudding, if you like, would be whether new members, not the older - not the older members, would find it helpful because we're all used to knowing places to go to get information.

You know, one of the tracks is, you know, the ICANN Passport which, to me, looks very much just like a LinkedIn. So whether the new members will find this sort of closed and perhaps safe environment there's four channels, there's lots of experiments. And Chris Gift himself said some will work and some won't - some won't work.

It did have sort of smacks of a sledgehammer looking for a nail, was a phrase that was used or don't reinvent the wheel. And of course it's coming back to issues of should ICANN reinvent software so its - so its own software or use existing (party) software like, you know, LinkedIn or Facebook or something like that where it's not clear exactly who has the rights to the content and things like that.

But some of those concerns do seem to be addressed perhaps a little bit after the initial setting up. But by the call for the advisory group for digital engagement project, sorry, advisory group for a digital engagement project, no acronym yet, and, thanks, Bennie, for sending around a note about that.

I joined the group. So did Marilyn and Angie Graves. Had the first call yesterday afternoon, 27 members on that. So let's hope that that group and let's hope it's diverse, will be able to find out really what's going on there and bring it back to the BC members. But I encourage everyone to have a look round on it...

Steve DelBianco: Is it intended to serve BC members or is it intended to serve unaffiliated members of the community who decide they want to learn more about what ICANN is doing?

Chris Chaplow: Well theoretically it could serve any member. I think it would be more centered to the people who are furthest from the community. And indeed new BC members, it would certainly be sensible to any new BC member to point them in that direction.

Steve DelBianco: Are there any new - any relatively new BC members on the call that might be able to dedicate several hours to trying it out and let us know what you think?

Marilyn Cade: So, Chris, it's Marilyn. Can I comment? Would that be okay?

Steve DelBianco: I just quickly asked a question on that, was there anyone who would want to volunteer to try it out as a new - relatively new ICANN community member? Not hearing any, go ahead, Marilyn.

Marilyn Cade: Thank you, Steve. I realize you didn't want to listen to my comment but let me make it anyway. ICANN is trying out a number of activities. We have asked ICANN to support us in helping us to do our work better.

And I don't know if Chris could maybe spend a couple of minutes before we end this call. There - we submitted a number of requests for funding that has

nothing to do with what Chris just described but funding to help us do our job better.

And then the activities that Chris just described would feed in - they might feed participants in to us. So if it'd be okay for Chris to, you know, I know we don't have the time here but we do now finally have the Board announcement of what's going to be funded. We submitted a number of requested supports. That's not to replace what ICANN labs and other initiatives are doing.

But to your point, Chris, we need for those other initiatives to feed into us but we need to be able to receive the new players. Could maybe we have two minutes from Chris on the budget update from ICANN? And how that affects...

J. Scott Evans: Hey, Steve, this is J. Scott. I'm going to have to jump off. Thanks so much for everything you've done, I really appreciate your steering us through this complicated call. Have a good day.

Steve DelBianco: Chris, we're over time so I think we'll probably not get to that. And we won't get to my singular versus plural...

Chris Chaplow: Yeah, I'll send you the...

((Crosstalk))

Steve DelBianco: ...rant. Thank you - in writing would be great. And I am trying to circulate and understand whether the BC wants to do anything about singular/plural. There is no official way for us to participate other than to generate a letter where we would suggest that there needs to be further public comment on the singular



plural decisions and the conflicting decisions that are coming back from the arbitrators.

Marilyn Cade: And...

Steve DelBianco: So I would look for folks to reply by email. If you could reply to all. I'm anxious to try to find a way for us to make a difference on what many BC members feel is a fundamental flaw in the way that ICANN's rolling out new gTLDs.

Marilyn Cade: And, Steve, it's Marilyn. I would welcome being able to take that into the CSG where I think there would be support if we could come up with something.

Steve DelBianco: And, Marilyn, would you be willing to forward along at least the text that I have on the bottom of my email, it's under Channel 4?

Marilyn Cade: Of course. I'll do that immediately.

Steve DelBianco: Please do.

Marilyn Cade: I think there could be strong support from the CSG for something.

Steve DelBianco: Okay.

((Crosstalk))

Steve DelBianco: Great. Has Zahid joined the call yet? Okay so we don't have any of our councilors on the call. The Council agenda was just posted. I put it up in the box. I will ask our councilors to email us before the September 5 meeting on

items of particular interest especially voting the motions on September the 5th.

Okay so with that we'll conclude today's call. Thanks, everyone. Have a great weekend. And we'll be in touch in the next two weeks.

Thanks, Benedetta.

Man: Thanks, Steve.

END