
BRENDA BREWER:

Good morning, good afternoon, good evening everyone. Welcome to the Business Constituency Candidate Call and Membership Call on 30th of May 2024 at 13:45 UTC. Today's call is recorded and is governed by the ICANN Expected Standards of Behavior. Please state your name when speaking for the record and have your phones and microphones on mute when not speaking. Attendance is taken from Zoom participation and we do have apologies from Nivaldo Cleto and Chris Buckridge. Please note the first 20 minutes of today's meeting are dedicated to the Candidate Call. When finished, the BC Membership Call will begin. And I'll now turn the call over to our BC Chair Mason Cole for opening remarks.

MASON COLE:

Thank you, Brenda. Good morning, good afternoon, good evening everyone. Mason Cole here, Chair of the BC. Welcome to our call on 30 May. This is our last call before we meet in Kigali, so thank you for those of you who have noted the time change for the call and are here for the candidates portion of the call. Just in the way of housekeeping, you see the agenda in front of you. Before we begin, are there any updates or additions to the agenda, please? Okay, no hands there.

All right, so format-wise, what we're going to do is what we traditionally do for Candidates Call and that is that Brenda will moderate the candidates' presentations and then we'll cue members' questions to the candidates. We've allocated 20 minutes for this before we proceed with the regular agenda for the membership meeting. We have all of the candidates on the call and I believe we're prepared to go. We may have

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some late stragglers coming in, in terms of BC members, but we want to go ahead and proceed in deference. So, let me turn the chair over to Brenda temporarily for item number two. Brenda, please take it away.

BRENDA BREWER:

Thank you, Mason. Welcome to the candidate portion of today's call. Candidates speaking today are Vivek Goyal, nominated for the Business Constituency GNSO Councilor Representative. Arinola Akinyemi, Business Constituency Small Business NomCom Representative, and Ching Chiao, Business Constituency Large Business NomCom Representative. We will give each candidate approximately five minutes to speak and we will begin with Vivek. Vivek, the floor is yours.

VIVEK GOYAL:

Thank you, Brenda. Thank you, everybody, for this opportunity. I'll keep this short. I started off with the BC in 2018 and when I started off, and I started with ICANN much earlier in 2012 when I was introduced to the whole concept of domain and the niche community that runs around here during the first round of the gTLDs. I would want to believe that I've become wiser since then. When I first joined ICANN, I wanted to learn everything. I wanted to know the full form of every acronym that's going on, wanted to know everything about every topic that's being discussed. But having spent so much time, learned from so many wise people who have spent their lifetime here, I've come to realize that I'm setting myself to a goal which I will definitely fail in.

There are a few things that I have learned and want to take forward. One, focus on a few things which I'm really excited about, which are of

deep interest to me and which I think will make a larger difference to the whole ICANN community and people who interact with the internet as a whole. Second, go deep instead of wide. Learn everything about these topics as much as I can and use that to put forth positions that are well thought out and also takes into account everybody's points of view. And third, whenever I feel that I am not able to do justice or cannot understand something, raise hand and ask for help. As it was famously said in Harry Potter, help will be given to those who ask for it. And I think that is as true for the ICANN community, specifically for BC as it was for Hogwarts.

I have tried to learn as much as I can about the GNSO Council, the work that is done there, but I'm sure there's a lot more to learn. And I believe with all that I have learned till now and the ability to learn new things fast and apply the learnings quickly, I'll be able to further the BC's role in the GNSO Council and put BC's point of view forth. Thank you very much for this opportunity. Look forward to serving the BC again. Thank you.

BRENDA BREWER:

Thank you, Vivek. And we will hold questions after our candidates have all spoken. And I will now ask Arinola to please take the floor. Arinola, please unmute your line. There you go.

ARINOLA AKINYEMI:

Hello, everyone. This is Arinola. I really want to thank [Zak] and everybody for your confidence in me to go forth to the NomCom, the small business side. I wouldn't be saying so much either, but I would

want to bring forth my experience and my knowledge of the NomCom and my interest in going into the NomCom was piqued by my participation and my membership of the NomCom review implementation working group. Having joined the business in 2015 and haven't been privileged to serve in various committees and also representing the BC and the GNSO standing selection committee, where I was privileged to, right from the onset of joining that committee to over the chairmanship position. And as we all know, the standing selection committee also does candidates review and selection for the GNSO. So in a way it is similar to what the NomCom will be doing, what I'll be doing at the NomCom for the BC.

Also, if we consider the fact that currently as it stands, the BC is the only community that enjoys [inaudible] the NomCom review implementation working group. There was some talk around taking maybe one seat away from the BC. So the importance of having someone who has that knowledge or knowledge to represent the BC is why I have stepped forward. And I believe that the BC needs to step forward with its best foot so that this time around, there would actually be the importance of these two seats to the BC. BC holding these two seats would actually, you know, be driven home. I have over the period of working with my predecessors in the NomCom, asking them questions and trying to understand better how I can improve on what they've done. So I'm hoping to go there. Though it is expected that you would be an independent candidate, I want to believe that somehow you can always still play around and make sure that the BC is properly and well projected. Thank you for the opportunity.

BRENDA BREWER: Thank you very much, Arinola. And next we have Ching Chiao, nominated for large seat NomCom representative. Ching, the floor is yours.

CHING CHIAO: Thank you, Brenda. Thank you all for the opportunity, you know, this time for me to serve as your NomCom rep from the large business seat. But, I mean, basically the definition of large business here, I mean, obviously can be interpreted by, you know, kind of different standards. So I'm coming actually from a more in the startup world, but pretty much I serve many of the larger business, Fortune 500 business. I work with them side by side in many of the years on the business sites. Very little bit of my previous background in the previous decade, meaning before 2010, I was more on the registry side of the business. And then after 2010, I am more on the registrar and actually running seven or eight registrars in the Asia Pac. So I'm very much involved in the startup and also the brand protection, the business and also the market there. So I have the small business like in my DNA, but my purpose is to help, you know, larger business with my expertise and also my experience to manage their brands.

And then after 2020, I think I kind of moved on and then step into a new stage of my life. I actually moved from Taiwan to the States. So I currently live in the North America zone. So I'm holding actually two residencies. That also, I mean, allows me to cover, you know, a more diverse region and a more wider range of, you know, audience or customers.

So right now, my role at BC is simply to represent, in the starting point is to represent WHOISXMLAPI, a big data company for domain name and IP data. It's simply just to help if we can do our best just to make sure the internet is safer with our presence. I think we're trying our very best to do that. I mean, working with large and small cybersecurity companies in the world. So that's the whole purpose for me to move from the contracted party side to the non-contracted party side. Now lends this role and also other my interests in the business side of, you know, the, you know, the GNSO. So that's just about my background here.

And as for this NomCom role, I pretty much believe in a nutshell, and if I may just take or paraphrasing one of the key management guru, that's actually Jack Welsh. So I'm just paraphrasing here. So I mean, he always emphasized that when you become or when you serving in the leadership position, what you need to really to do is to find people that smarter than you, finding the, you know, the good quality people, smarter people that can do things better than you. I think that's pretty much explain what I plan to do and serve this role is to really, to find like good quality of people, knows this importance of public private partnership, knows, you know, or the actually to acknowledge, as I explained in my candidacy statement, is that you really need to look into the, you know, the profitability side of the ICANN operation, as well as how we can make this ICANN model more sustainable and actually [last] and to bring more trust and to bring more, you know, participation here.

So I think we're also right now in the very critical time, you know, the expansion of the TLD space once again, and also all this kind of, you

know, development on the RDRS part, and also this new challenges from—with all the geopolitics challenges, we really need to find like, you know, candidates, it's not just sitting on the board, you know, with, you know, the nametag as an ICANN board member, but really shows it can be, I mean, he or she can be like influential, can serve really as a leader to take the ICANN to the next phase of its, you know, its operation. So I'd probably like to stop here. Once again, I thank you for the support. And please just let me know if you have any question. I'll be happy to answer. Yeah, thanks.

BRENDA BREWER:

Thank you, Ching. And we will now take questions for our candidates. You may raise your hand and I will announce your name. Please stand by. And Tim Smith, please ask your question.

TIM SMITH:

Hi there. Actually, I noticed a note from Jimson in my email. So I have a question for the two nominees, Arinola and Ching. And this comes from Jimson. First off, thank you very much for stepping forward and allowing your names to stand and be nominated for this these important roles. And his question is, I wish to ask how you intend to balance the expected neutrality status of the NomCom with your strong desire expressed in your statements to represent the BC interests, especially to retain the value of our small and large seats in view of recent challenges. So perhaps, Ching, you just finished. So maybe I'll turn to Arinola first for her response to that question.

ARINOLA AKINYEMI: All right. Excellent question there. Like I mentioned earlier on, you are expected as a NomCom delegate to be neutral. At the same time, you can actually balance it by simply ensuring that whatever you are doing, first and foremost, I am a business person. So naturally, I would want to—my neutrality will always tend to go towards what will be beneficial to the business community. For me, it's a natural thing that comes along, not because it's BC per se, but as a business person, I would be able to cut a balance because my being on the NomCom means I'm bringing in people who will drive policies that will be beneficial to my business. And as such, it will be beneficial to the BC. Thank you.

CHING CHIAO: Thank you, Arinola. Probably I will add based on I fully agree what you have just described. But for me, it is very obvious that as a NomCom representative, we need to act with neutrality and also independently. But I will also keep my door and also the communication more open. I mean, definitely I will look into the guidance from the BC ExCom on the basis of whatever I will be able to disclose or discuss in the matters of the candidates' qualities and expectations. So on this particular issue, I definitely look into more guidance from the BC ExCom. Thank you.

BRENDA BREWER: And Lawrence, you may ask your question.

LAWRENCE OLAWALE ROBERTS: Thank you, Brenda. Good day, everybody. Straight to the candidates for the Nominating Committee. My question will be, I would like to, what is

your understanding of the reasons why the BC maintains two seats on the Nominating Committee? And how do you, in your own individual capacities, intend to showcase value for these seats within the Nominating Committee? If the question isn't clear, I could go over it again.

CHING CHIAO:

Thank you, Lawrence. I mean, if I may, maybe answer first. And then Arinola. Thank you, Lawrence. So I think that's a great question. I think, you know, I mean, you know, I would just, I mean, to be very honest with you, I just, I will need also need your, you know, guidance of how this, you know, it's actually this—So this arrangement has been said this way, make BC is more unique than other, you know, constituencies under the, you know, the contracted party. But for me is that, as I said, to make sure that the balance of—or to make sure that the uniqueness of the large business, and also the small business, pretty much based on, you know, what I have, you know, my personal experiences in terms of running startups, and also serving large business interests. I know that large business does, you know, large business or like, you know, business with larger brands, they did have larger influences. And so with their presence, through NomCom's work, if we select those people that can be useful for the next phase of ICANN's work or for the SOs' and ACs' work, if we're expecting some with, for example, someone from the larger organization can help us to, you know, navigate more, you know, critical or business challenges, then we'll probably, you know, look for those, you know, candidates with those qualities. Or if there's a stage, for example, I remember in the early days of the, you know, GNSO or ccNSO, when we pick up, when we, for example, when I sit on

the GNSO or CCNSO council, some of the NomCom, you know, candidates or, you know, representatives, they do show great qualities in terms of like innovative thinking and also, you know, working under, for example, time constraints or like resource constraints. So I think for some of the roles, if that's something we need, some of the qualities that we need, and then I believe that I will work and persuade or actually to coordinate with my NomCom colleagues to have those candidates being selected. Let me stop here. Yeah, thank you.

ARINOLA AKINYEMI:

Yeah, I totally agree with Ching Chiao there. The uniqueness of the small business and the big business, that's uniqueness to both of them. The needs of the interest of the large business and the interest of the small businesses are quite different. And that is basically my understanding of why we have two seats on the [inaudible].

BRENDA BREWER:

Thank you. And we will move to Mason Cole.

MASON COLE:

Thanks, Brenda. My question is for Vivek, if I may. And Vivek, I think I would be interested and the BC would probably be interested in learning more about your intention to build coalitions or partnerships with others on the GNSO. I mean, as you know, on the non-contracted side of the house, it's very difficult to get anything accomplished through the GNSO. And we tend to need alliances within the council to

advance BC interests. How do you plan to go about building those relationships and how would they benefit the BC?

VIVEK GOYAL:

Thank you, Mason. Excellent question. And I think we've had a lot of discussion about this in the previous BC meetings as well. I'll share a story that I read and I think is very helpful in this case is there was a CEO of a large company. And for lunch every day, he used to sit with a separate different person during lunch. He was a CEO and never used to sit with the same group of executives. He would sit with different people and hear them out and build bridges. So he not only learned a lot in this whole process, but he built a lot of relationships which helped him.

So taking a cue from that, I think building relationships outside of the meetings that we are sitting in will go a long way in talking to each other, understanding the point of view, finding out the reason why their point of view exists and finding common grounds, which we can then bring into the meetings. Everybody comes to the meetings and their opinions have a reason behind it. If we can figure out what is the reason behind it, there is a way we can find common grounds and build on that. So this is what I'm planning to do, meet as many people as I can from different SOs and ACs from the non-contracted party side outside, you know, outside the conference rooms and build bridges and understand why their point of view and how we can work together to come to common grounds.

BRENDA BREWER: Thank you. And we have one more opportunity to raise your hand to ask a question. Seeing no questions, I will advance the slide to our timeline. And as you can see, we have taken care of number one and ballots will be sent out tomorrow at 0:00 UTC. So on 31 May 2024, ballots will be sent out to eligible paid BC members. And you have one week to submit your vote. And we will have the announcement of the outcome will be announced on Friday, June 7th. And the nominees who are elected will take their seats at the end of ICANN 81, which is in November of 2024. And with that, we will conclude the candidates portion of the call and we will move to the membership portion of today's call. Thank you.

MASON COLE: Thank you, Brenda. Mason again. Thank you for handling that part of the call. Well handled, Brenda. And well handled to the candidates. As Marie says in the chat, thank you all very much for stepping forward on behalf of the BC. I'm sure that your representation of BC interest will be beneficial to BC and we look forward to your service. All right, thank you. Okay, we're going to change the agenda a bit because Steve DelBianco is still occupied on a separate call, but I'll give him fair warning when it's almost time for his portion of the call. But Tim, do you mind going first for item number four? Is that okay?

TIM SMITH: Not at all. Happy to do that. And my report's not that long, but I will try to stretch as much as I possibly can. So thank you again to the candidates for stepping forward. And as Brenda has indicated, ballots will be sent to current members tomorrow or overnight tonight, I guess.

And you have a week to consider and to vote. And we look forward to your participation in that. I guess the next round of elections and nominations will take place probably in September. And that will be for BC Chair, Vice Chair Policy, Vice Chair Finance and Operations, and our CSG liaison. So it's great if people can be considering whether they're interested in standing for one of the officer roles for the BC, but you've got plenty of time to consider that. The whole summer to think about it. So that will be on our agenda.

I guess to give you a little bit of a finance update, we are in the process of preparing our FY25 budget. And so I did circulate some information to the ExCom yesterday for their consideration and for discussion. So should have something to present to the membership in the coming week or two, hopefully before Kigali so that it's something that we can discuss formally or informally there. So that's just to give you a little bit of an update on that.

I know that all the invoices have gone out for FY25. And I have seen payments being made. So thank you to those who have already made their payments for their dues for FY25. And look forward to seeing the remainder of that coming in. We should be having membership dues all together in the range of about \$29,000 US. So hopefully everybody will be renewing. So that's kind of that from that standpoint.

I will say that, of course, Kigali is right on the horizon. And we've been spending a lot of time thanks to Tola and Segunfunmi and Segun Omoloso for their participation, and for the assistance of Lawrence and Brenda, in organizing an outreach that will take place on Tuesday, June 11. In the morning from 9:00 till noon, we will conclude the

morning session with a brief lunch. So I will send out a note to everybody with a registration link to the BC members list for anybody who's interested in participating in that. Of course, we're hopeful that we will have great participation from the region, from Rwanda ICT and from AfICTA. And we're hoping to have about 50 people there is our hope. So far, there are about 20 people who've signed up. But I am getting an update tomorrow afternoon. And so I'm hoping the numbers will be closer to that 50 range. But if it's at all of interest to you, following this call, I will be sending out a notice of the meeting and an invitation for any of you to attend who would choose to do so. So that's that.

Oh, in addition to that, we will also be sharing some space in the I guess exhibition area of the convention center. So I guess Segunfunmi and Tola will be sharing some space there. So you can go and say hi to them. And of course, if you run into anybody in the halls who is interested in knowing more about the BC, you can send them to that table for more information.

And of course, a lot of the organizing related to this outreach and the ability to do it is as a result of the community regional outreach program, the CROP program for which there is some funding over the course of any fiscal year. And to that point, yesterday, we actually received notice that the procedures and guidelines were issued for FY 25. So there's a process in order to—we need to submit our outreach and strategic plan for the coming year, which I will be doing in the coming days. And that will enable us to apply for CROP funding for the coming year from FY 25, July 1, '24, through June 30, '25. So we haven't had discussions about any, any outreach for the coming year. But one

thing we do need to consider is that any submissions for funding need to be done seven weeks before the event that we're talking about. And to my knowledge, the first event that we would probably want, possibly to have an outreach program would be for the Istanbul ICANN 81, which of course, those dates are November 9 to 14. And as a result of that, we would need to be submitting for funding before September 20. So that's, boy, everything just sort of creeps up on us quite quickly.

So that's pretty much that. I guess the one thing I would say, as I sent a note to the list yesterday, about contributions for the newsletter for ICAN 80. I am hoping to finalize all of the details for that by tomorrow. I have received a couple of articles, but could always use one or two more. So if you have any news that you want to share with the BC about your business and the value of participating in the BC and participating in ICANN, that would be welcome. Even a paragraph or two would be great. So I encourage you to do that and to get that to me by tomorrow. And that is it for me. I'll take any questions from anybody.

MASON COLE:

Thank you, Tim. I have a follow-up question, if I may, and that is on the outreach, that's held off-site, right, and there's transportation available?

TIM SMITH:

Yes, and I guess it depends on how many people actually choose to go. It is a place called [inaudible] House, which I'm told is about a 15-minute drive or cab ride or bus ride from the venue. And there is a small bus at this point, I think a 20-seater, that has been set up for that. So as long as

we're under 20 people, we can all ride together. Beyond that, I guess we may have to take cabs and things like that.

MASON COLE:

Okay, thank you. Other questions for Tim? All right, Tim, thanks very much. Comprehensive review, much appreciated. All right, on to the policy calendar review. Steve, please take the floor.

STEVE DELBIANCO:

Thank you, Mason. Since our last meeting, we filed one comment on the 21st of May. Thanks to Ching Chiao for drafting. [inaudible] helped as well. It was on the phase two initial report on the EPDP for internationalized domain names. And we are so lucky to have Ching in the BC because of his ability to reach back into his experience on managing IDNs, both at the top level and the second level. And I think our comment was going to come out of the blue for these folks because they did not address the issue of variants at all. So I'm really proud of that work that was done. And thank you again, Ching. Appreciate it. Are there any questions for Ching on that? Okay, great.

Moving ahead to open public comments, there is only one, because typically for those who are new in the BC, as we creep up on an ICANN meeting, typically ICANN staff will reduce the number and frequency of public comments because they know that people are preparing to travel and gear up for the meetings. So with that in mind, there is only one comment and it doesn't close until the first week of July. So we've got four and a half weeks left. It's on the policy status report.

So this is entirely about the inner workings of the GNSO council and community, both. So we don't want to restrict this to just councilors, but councilors need to be part of the process. And that's where I'd love to lean on any BC member who has prior experience on council to help to come up with comments on this. I'm also wondering whether it makes sense to maybe pair up with our CSG brethren because they too experienced some issues or concerns. So Marie, I will lean on you as a former councilor, Lawrence and Mark as well, to see whether we can come up with a sensible comment on how well it is working in the council as well as within the community's interaction with council. I'll happily take a volunteer now if anybody on the BC call right now would like to volunteer to be on this drafting team.

VIVEK GOYAL:

Steve, I would like to join this. Vivek here.

STEVE DELBIANCO:

So Vivek and did I see Lawrence say the same? And Marie, that's fantastic. Appreciate all three of you. I'd like to turn over the next to Marie and I don't know whether we have Sven on the call today to update us. Marie, do we have anything new? Yes. And Sven, you're on the line as well. So please, either of you just speak up as to whether we have any news at all on NIS 2 transposition because October is not too far away.

MARIE PATTULLO: Hi, Steve. This is Marie. All I know is that Sweden has an open consultation. I believe that Mason put in a comment on that, as does Germany, who have published their draft law. At the European side, I've also been talking with the EUIPO and sent them a long implementation paper. The European Commission, not our bit, if you like, one of the other parts, [inaudible] which is the intellectual property part, among other things, is also hopefully going to officially send the Commission recommendation to the working group that's led by Finn Petersen. They haven't yet done that, but we are hoping they will and suggesting that they might want to do that. Thanks.

STEVE DELBIANCO: Sven, anything you'd like to add?

SVEN ECHTERNACH: Thank you, Marie. I have nothing to add.

STEVE DELBIANCO: Great. Appreciate that. Any other BC members have any insights or concerns that we should raise with respect to the transposition of NIS 2? I am curious as to whether NIS 2 got any media, any attention at all when the contract parties met in Paris two weeks ago. I understand a few of you were there. Did they recognize NIS 2 as a coming concern? Anyone on the call that attended?

MARIE PATTULLO: I didn't attend. If I can just interject that I was told by somebody who listened in that apparently the comments made about NIS 2 were in essence nothing to see here. There's nothing for us, the contracted parties, to do.

STEVE DELBIANCO: Okay. Mason?

MASON COLE: Yeah. Thanks, Steve. Just a quick update. I would disagree that there's nothing for the contracted parties to do, but that's for the contracted parties to interpret, I suppose. In terms of NIS 2 overall, you're correct. Jurisdictions are in the middle of transposition right now. It appears that most are taking a literal approach to transposition, meaning they're taking Article 28 language from the European Commission and moving it directly into member state law, which is generally good news for our interests. There are going to be some jurisdictions that we've heard are going to miss the October deadline, and they will pay some fees for that transgression, but there's still some work to do. Slovenia has an open consultation right now that closes tomorrow. As you pointed out, Germany and Sweden just closed, and there are several other jurisdictions that are approaching consultations with the public about their transposition that the BC may want to weigh in on. So I would encourage members to keep your eyes open for potential BC submissions to that.

STEVE DELBIANCO: Chris Lewis-Evans, what do you have there?

CHRIS LEWIS-EVANS: So while I was there, I think the main thing I heard was it really depends on the transpositions and the countries they're in. It feels very much like they're in a watching game at the minute and waiting for those. There wasn't too much said at Paris. I'm just trying to find it now. There was a separate talk that the DNS Research Federation gave. They've created a NIS 2 tracker that shows all the different transpositions. So if I can find that, I'll share a link on the chat. If not, I'll send it around on the group later.

STEVE DELBIANCO: Perfect. I mean, Mason and I and a number of us were in Hamburg on day zero. We heard European registrars who were quite upset, Volker among them, Volker Greimann. They were very upset about the new obligations that would fall on them when NIS 2 was transposed. They did not act as if there's nothing to see here. So perhaps there's been a revision in the way they're thinking. Chris, if you were there, was Volker present and was he vocal?

CHRIS LEWIS-EVANS: I mean, you know Volker, he's always vocal. Yeah, no, on the NIS 2, he was quite quiet to be honest. But I do think there is some concern, but I don't think they want to voice it very publicly at the minute.

STEVE DELBIANCO: In the Hamburg day zero meeting, we heard ICANN, Elena Plexida, stood up and said, "There's nothing for ICANN to do. It's all up to the registrars and registries who are subject to the European jurisdiction." So they washed their hands of it completely. That's what was really upsetting to Volker and others in Hamburg. But since then, I can see they've evolved their thinking a little bit. Chris, hand still up or old hand?

CHRIS LEWIS-EVANS: New again, sorry. Yeah, on that point, there was a little conversation at half court where ICANN's feeling is that the current rules in the contract are broad enough or loose enough that contracted parties should be able to cater for NIS 2 within them. But I think this is probably where Volker's concern is, if the transposition is in such a way, then they might need to change that view. So I think it really does depend on how they get transposed as to whether ICANN will have to act. And I think if it's a literal reading, probably not. If it's, I think, .dk, it's probably going to be a bit harder. On those sort of landscapes, they might have to make a change, but we'll have to wait and see.

STEVE DELBIANCO: Chris, I'd like to concur with you before I call on Steve Crocker. The only reason ICANN had to change a policy would be if following their policies and contracts would force the contract party to violate a law. And that was the rationale used for the temporary spec in 2018. If ICANN policies and contracts allow a contract party to do more, to follow law, that you don't have to change ICANN policies. We may still argue that they should change the policies, but I'm sympathetic with ICANN's argument

that they don't believe they would restrict Volker and others from validating registrants, for instance, or maintaining a thick registry for the purpose of complying with NIS 2. Steve Crocker.

STEVE CROCKER:

Thank you. So following this last bit closely, but still not clear on a key point. Understood that ICANN's posture is ICANN's rules are not getting in the way of registrars conforming to the stronger requirements from this too. What is it that Volker was so unhappy about? What does he think ICANN has to do differently? I apologize if that was covered, but not clearly enough for me.

STEVE DELBIANCO:

Yeah, it was many months ago, Steve. Certainly Mason and I, and maybe several others were at the day zero meeting in Hamburg. There was members of the European commission who stated very matter of factly with a handful of PowerPoint slides, what the obligations would be in October when transposition occurs, such as validation of registrants and the maintenance of enough information, even at the registry level to be able to answer.

Now, once they did that, then ICANN presented a dozen pages indicating that they didn't need to do anything because their contracts and policies allow registrars to do more. And that led to an afternoon where Volker and a couple of other European registrars were quite frustrated. They felt like the European commission had chosen to implement things that contradicted some of what we saw in GDPR. They felt that was unworkable, that it would be impossible to do this without

changing the way they do business and incurring extra costs. So it was a general complaint from Volker and I believe he was frustrated that ICANN wasn't stepping in to be more of a leader and defending its contract parties. Mason, is that your recollection of how that went?

MASON COLE:

Actually Steve, I wasn't in the room for that, but yes, there was some surprise on the part of European registrars that it seemed as though the NIS 2 obligations sort of snuck up on them and that they weren't getting any help from ICANN Org. And you're right, the European commission stated very matter of factly, these changes are coming and you need to be prepared to adapt.

STEVE DELBIANCO:

The whole point of the event, Steve, is linked right here on the NIS 2 implementation challenges. And that's where that session and a recording should be available. Sorry, go ahead.

STEVE CROCKER:

Thank you. So let me just replay what I think I just heard, which is that, and I'm going to reorder the points slightly. The NIS 2 requirements in fact impose adjustments, I'll say, to GDPR. That is the current or the ongoing interpretation of GDPR is we don't give out information to anybody for any reason whatsoever. We are biased very strongly in favor of either not having the data or not giving it out. And the NIS 2 requirements as well, you really do have to give it out and you really do have to validate it, etc. And understandably the registrars are saying, oh

my goodness, this is going to change the way we do business. It's going to impose some costs and so forth. And ICANN's posture is not our problem. And the response, if I understand what you're saying from Volker et al is, oh, why isn't ICANN sticking up for us and pushing back on NIS 2 because we liked it the way it was? I'm adding quite a bit of color to this. How far off am I in understanding the positions?

STEVE DELBIANCO:

I think that's fair. I think that's fair. And yet it has evolved. It has evolved since Hamburg, according to Chris and others that listened in in Paris. So they seem a little bit less concerned as of now. And that could be posturing or it could be that they've solved the problem or they're confident that transpositions will not be that significant. So it has changed. I don't think I want to base too much, Steve, on what I saw in Hamburg since that was a long time ago.

STEVE CROCKER:

Okay. That's good enough for now. I think it will be very interesting to understand where the different parties are coming from. ICANN is historically looks first for why do we have to do anything and how do we get out of taking a forward position on this? There's probably a slightly more positive way to state that. They like to be driven by what the community requires as opposed to trying to take a leadership position and saying we've thought about this and therefore everybody should do the following. Which would be... Anyway. But it looks to me like the main interaction here is between the EU and the registrars with everybody else just trying to keep up.

STEVE DELBIANCO: I would agree with you.

STEVE CROCKER: Thank you.

STEVE DELBIANCO: Thank you. Not seeing any other hands, so I'll jump to Council. The previous Council meeting was the 16th of May and I've just summarized a few of the votes that were taken there. But we're happy to have Lawrence or Mark comment further on this. Lawrence.

LAWRENCE OLAWALE ROBERTS: Thank you, Steve. Sorry I can't put on my video for members just to be sure that I have good bandwidth to deliver on this. The last Council meeting had a few concept agendas that were approved. There is the role of a GNSO liaison to the GAC, which Council considers quite an important role. Jeff Neuman currently sits in that role and apparently he's term-bound and there is going to be a call for a new candidate or someone new to step into this position. We have the standing committee that helps appoint talents for the GNS or Council. And what we have done is put together some kind of guidance and documentation on what is expected of the GNSO liaison to the GAC and have communicated and will now start the process of searching for one. So if there is a member within the BC that feels they have the bandwidth for this, it could be a former Council member. It doesn't have to be someone who understands the GAC and priorities between the

GNSO and GAC. This could be a very good opportunity to step into this position. We will let members know once the call for candidates is open.

We are looking at approving the board's amendment. That was done across community working groups on auction proceeds. We also defer the vote on the expiration policy and the supplemental recommendations based on the IPC's request. But at that Council meeting we had staff educate the Council that the concerns the IPC were putting forward, which is the fact that once a domain name expires, the current practice is for the registrars to send it into the aftermarket and auction such that other registrars don't have an opportunity to also re-register that domain for other parties. We were told that the remit of the expiration policy that was conducted did not have in scope that particular aspect. It basically was looking at the process flow leading to a registrant no longer requiring that domain name. What happened thereafter wasn't and isn't going to be considered in a policy review going forward. I'm sure in the next Council meeting, after we've taken the vote, Councilors will discuss what can be done with regards to the concern that was raised by the IPC.

The diacritics issue took quite a long time discussing that. Now we have advanced that for a study to be done. I'm sure with particular caveats to the Latin group, considering what the Latin group recommended, why their recommendations went in that regard, and giving that information as part of the study so that an informed decision can be taken going forward. The next Council meeting will be on the 12th while we are all in Rwanda. Once the agenda is out, we'll also share that with members on the private list for our thoughts. While we're there physically, I'm sure we can also step into the Council room to observe the meeting and be

part of the discussions ongoing. Thank you, Steve. I don't know if there's any further questions. I may need some more clarity.

STEVE DELBIANCO:

Thanks, Lawrence. I don't see any hands up. I really appreciate the way you stay on top of these things. At the end of the policy calendar, we'll come back and discuss a little more about what, if anything, we'll do to support the IPC on their request to challenge an ICANN Org decision. The next Council meeting comes up while we're all together in Kigali, and we should see that agenda by this coming Sunday. So I don't have it to share here.

In terms of other GNSO activities, I'd like to turn next to Zak and Arinola. You're both on the line and have been active on our BC list in the last four days to try to solicit comments from your fellow BC members on proposed recommendations that you cannot live with. Zak and Arinola, I'll turn it over to you. I can display the document that we circulated with the policy calendar or the updated table you put out yesterday. You just let me know.

ZAK MUSCOVITCH:

Thanks, Steve. Steve, maybe you can put on that chart that I distributed to the BC private yesterday. That's an abbreviated version. So originally, via the policy calendar and via BC private, I distributed the transfer policy review working group's draft recommendations. This is like 30 plus recommendations and about 45 pages. So I imagine everyone has already reviewed that. But listen, there's a lot of stuff that doesn't directly impact BC interests in there. So what I tried to do was distill the

ones that I believe did directly concern the BC interests. And I put it into the chart, which you see in front of you now.

So the first column indicates what the BC's position has been. This BC position was developed from discussions within the BC of those people who are particularly interested in this back in April of 2022. And that's when Susan Kawaguchi was also played a role in developing these brief BC positions. The second column indicates the draft recommendation, which is essentially cut out and pasted from that longer document that was distributed. The third column is the working groups explanation rationale for their draft recommendations.

As I indicated to the BC private yesterday, it's my view, and it's a preliminary view because my view is subject to the feedback of the BC as a whole. But it's my view that overall, the working groups recommendations are reasonably aligned with the BC's positions and interests. And so I'm almost surprising myself to say that I'm fairly happy with the working group's recommendations. And therefore, I'm not anticipating anything particularly contentious or a big fight that we have to gear up for. But there will be an opportunity to for a consensus call, of course, within the working group when the BC can give more formal instructions down the road. And there also be an opportunity to provide public comments, which are expected to open up the end of August on these preliminary recommendations. Nevertheless, we have an opportunity to kind of give our advanced feedback to the extent we need to. And the question before us from the working group is whether there's anything here that we just can't live with. And my view is that's not but if anyone has a view that there is or has any particular issues they'd like to express, Arinola and I would love to hear them.

I'll just briefly go if I just can take a couple minutes of your time just to go over the actual content of this chart now, and just give you a kind of a verbal explanation. So the first issue is change of a registrar. And the BC's position was that a registrant shouldn't be prevented from transferring its domain name from one registrar to another. Even after a recent registrar change. What the working group is proposing now, sorry, and let me just back up. And another BC position that we'll see later down the chart is that a domain registrant should be able to change from one registrar to another at will without any restriction. So the BC wanted a registrant to be able to change from one registrar to another and change from registrant to registrant.

But here what the working group has proposed is that there should be a 30 calendar day lock essentially, on transferring the domain name from one registrar to another after the second hop. So transferring from GoDaddy to [inaudible], there's no restriction, but transferring from [inaudible] to Tucows, there is a 30 day lock. And the reason is it's for security. The thinking is that there's no problem in changing from one registrar to another. But the reason there should be a 30 day lock on the second hop is because if there is a hijacking of the domain and unauthorized transfer of it, for example, then at least the former registrant and the bona fide owner has the opportunity to deal with the situation at one registrar rather than constantly trying to play whack-a-mole as the domain name gets moved from one registrar to another.

And so that seems to me to be a reasonable restriction on it. But, and there are some situations where that 30 day lock on the second hop is a real hindrance to businesses. For example, if there's a consolidation of domain name holdings at one particular registrar, and that necessitated

changes of the registrar to put it into that single registrar before closing, for example, it would hinder and delay the closing if the purchaser wanted to move it to its own registrar at closing.

And so there's a special carve out and that's highlighted in front of you, which the working group accepted. And I was one of the suggesters of this carve out. And that's that yes, there's going to be a default general rule for restrictions on that second hop. But under certain circumstances, a registrant can request and the registrar may agree to remove that 30 day restriction. And so there's some conditions and parameters for making that request. So that's kind of how that was solved. Steve, if we could scroll down to the next one, please.

Yeah. So change of registrant notification. So as you see in the left hand column, we didn't have a formal BC position on this. But, you know, generally speaking from the discussions that we did have about issue of notifications when there's a change of registrant, it was my sense that it was in the BC interest that, you know, if there's going to be a change of registrant, there should be notifications, you know, to the former registrant to make sure that everything was on the up and up. Steve, if we can just scroll down to that second set of there and just expand it horizontally if we can a little bit.

So in any event, there is in the second column, you'll see the following change of registrant data, there is now going to be a change of registrant data notification. There were some people in the working group that didn't feel that the notification was necessary, that it was more onerous upon registrars. But I and others pushed back on that. So

no, there needs to still be a change of registrant notification. And so that's going to be sent out.

Now, there is another carve out for this because some registrars, particularly boutique brand protection registrars, they felt that their business model entailed not having to bother their clients with these notifications when there was a change of registrant. And so there's a specific opt out process that requires an informed, affirmative, not by default selection of not receiving notices for a change of registrant.

Okay, next one, registrant initiable transfer disputes. Many of you have heard of the UDRP, the uniform domain name dispute resolution policy. Some of you may have heard but likely not have heard of something called the transfer dispute resolution policy. This is another ICANN consensus policy that's comparable to the UDRP, but it is only available for transfer disputes between registrars. That means that if you're a registrant and you find out the domain name has left your account and gone to another registrar that isn't your registrar without your permission, the registrant has to complain to their registrar and say, "Hey, you guys let my domain leave and go to another registrar and I need you to deal with it." The registrars typically informally deal with this between themselves, but there is this formal dispute resolution process that can be initiated, but it can only be initiated by registrars. In other words, the registrant has no right to initiate this, it must completely rely upon a registrar commencing this dispute on its behalf. And that's a precarious position for a registrant to put in.

So one of the things that I insisted upon in the working group and made some progress towards is creating such a registrant-initiable dispute

resolution policy. The working group members quite rightly pointed out that this wasn't within the mandate of the working group to create such a policy, but the best they can do, which is what recommendation 33 is, is to recommend that the GNSO request an issues report to look at this. So that's the first step in a long procedure.

STEVE DELBIANCO: That's a big step. I'm surprised you were able to get them all to agree to that, but well done.

ZAK MUSCOVITCH: Yeah, thank you. Me as well. And so our grandchildren will look forward to this. Okay, so let's scroll down a little bit more. I'll try to wrap up quickly. Post-creation date transfer lock. So this is when a domain name is newly minted. In other words, it's unregistered and somebody goes to register it. There's been, at least in dot-com, a mandatory 60-day transfer lock. So you go register a domain name that's never been registered before, at least it's not registered currently. The dot-com registry agreement requires you to leave that name at the registrar that you used for 60 days. This was hardwired into the dot-com registry agreement. Even Verisign didn't remember why this was in there. It's just ancient kind of legacy stuff. And so the consensus was, well, we don't need a 60-day post-transfer lock, but BC's position was, well, maybe we should leave it at 60 days, but maybe 30 days is a happy medium. Well, it is 30 days. That's what the working group is recommending. We're reducing it from 60 to 30 days.

That helps in two ways. One, it helps registrars make sure they don't have chargebacks on the initial registration fees. And it also helps brands and brand protection companies and trademark lawyers to make sure that if there's a new registration, at least they have 30 days in which to try some enforcement action against them. So that's that one.

Next one, change of registrant lock. So this relates to the change of registrar lock. The two kind of work together. And so I kind of covered this before. The way to look at it really now is that the security in the event of an unauthorized transfer or hijacking lies in preventing a domain name from making more than one registrar hop. So the working group's position really is that, listen, someone's free to change their domain name from one registrant to another. There's not going to be a prohibition on that. Those changes should be available to registrants at any time during a domain name registration period.

But the kind of safety valve is that second registrar hop. And so there isn't going to be a prohibition on changing registrants, but there is going to be a recommendation to stop that second hop. And that seems to be...

STEVE DELBIANCO: We're going to run out of time.

ZAK MUSCOVITCH: All right. Okay. I know you guys wanted to hear a lot more, but we'll leave it there and I'm done. Thank you, Steve.

STEVE DELBIANCO: All right. No, thank you. Appreciate that. Mason, all I had was a rather extensive report on the RDRS small... It's not a small team anymore. It's a standing committee. And I put all of my notes from the last meeting into the document. What's important for us to understand here is that in Kigali, there will be two sessions associated with RDRS. We are going to have an RDRS session that similar to what Steve Crocker led in San Juan on behalf of the CSG where registrars can participate, but the registrars are doing their own. Roger Carney of GoDaddy announced that. And we will have the opportunity to be in the room, sit at the table. So it looks like there's going to be dueling sessions at different times on the RDRS. And it behooves us to come in with evidence-based concerns about inconsistent behavior, the lack of participation by registrars, for which I'm very grateful that Patrick Flaherty and Faisal have put together a lot of data, but I don't know if Patrick and Faisal, I don't think either one will be in Kigali. So we may end up having to present their data for them.

MASON COLE: Okay. Thanks, Steve. Anything else for you before we move forward?

UNIDENTIFIED SPEAKER: Patrick will be in Kigali.

STEVE DELBIANCO: Okay. That's excellent to know. Marie, did you have anything for CSG Channel 3?

MARIE PATTULLO: No. [inaudible] please all come to the CSG and NCPH meetings in Kigali. Looking forward to seeing everyone. Thank you.

STEVE DELBIANCO: Thank you, Marie. Back to you, Mason. Thank you. Thank you, Steve. Thank you, Marie. Thank you, Zak. Thanks, everybody. Good report. Just a couple of other issues. One is, yes, the CSG is holding a consultation on RDRS. I believe that's on Monday. And yeah, correct. CSG working session on Monday, June 10 in Kigali. If you're able to be there, bring your experiences with RDRS and even more importantly, bring your constructive input on potential fixes to RDRS that can be shared with either the Standing Committee and/or ICANN Org. We're very much trying to keep this discussion constructive, not let it become a gripe session. So please make time for that in your Kigali schedule.

The other issue I wanted to raise quickly is the one of the reconsideration request that the IPC filed on recommendation seven of the Cross-Community Working Group on auction proceeds. There is no substantive update to share with the BC. I promise to keep you all updated. I have not had a chance to talk with Lori Schulman, the chair of the IPC, but expect to shortly. And I do know there was a board GNSO discussion about this issue, I don't know, 10 days, two weeks ago, somewhere in there, where Becky Burr of the board said, you know, it looks like the board's decision won't survive a challenge by the empowered community. But that's about as far as the discussion went, as far as I can recall. So there will be an update, I'm sure, by the time we get to Kigali. So look for that. Let's see.

STEVE DELBIANCO: Meanwhile, we've committed no funds or support level for the BC to pay for the reconsideration filing.

MASON COLE: Correct. Correct. Thank you for pointing that out, Steve. Yep. Okay. Let's see. One other housekeeping item is BC membership meeting at 15:30 on Tuesday, 11 June in Kigali. Again, 15:30 on Tuesday, 11 June. There will be remote participation available in the event that you're not in the room in Kigali. But we hope to have as many of you there as possible. And I want to do a particular shout out to Tim Smith for arranging, helping to arrange with the help of other BC members, the outreach on Tuesday morning. So if you're able to make that, that would be fantastic for you to join us. All right. Any other business for the BC? Okay.

Very good. Then we look forward to seeing everybody in Kigali. Safe travels. And for those of you who can't make it, we look forward to you joining online. And we should have a productive weekend, Kigali. So I look forward to seeing many of you there. And with thanks to Brenda for the support. BC is adjourned.

[END OF TRANSCRIPTION]