BRENDA BREWER:	Good morning, good afternoon, and good evening. Welcome to the BC Membership call on the 11th of February 2021 at 16:00 UTC.
	Today's meeting is recorded. Kindly state your name when speaking for the record and have your phones and microphones on mute when not speaking. Attendance will be gathered from the Zoom room. Mason, I'll turn the call over to you. Thank you.
MASON COLE:	Thank you very much, Brenda. Good morning, good afternoon, and good evening, everyone. Welcome to the BC call on 11 February. As you can see, Brenda has the agenda slide up for our meeting today. We have, as usual, very crowded agenda. I want to call your attention to item number six in particular because it's sort of out of order from the policy discussion that Steve usually leads. But we're going to have a briefing on a comment strategy the BC has embarked on the European Union's proposed NIS2 Directive. It's a fairly complicated issue so we've called that out, and Ben Wallis is going to lead that discussion. But that will come later in the day. So if there are no changes or additions to the agenda—and I see no hands in the room—then, Steve, over to you for the policy discussion, please.
STEVE DELBIANCO:	Thanks, Mason. Great attendance so far. I'm going to bring up the Policy Calendar that I circulated to all of you yesterday. I hope that that's in

the screen right now. I will lead us through that and we're going to need to have a little bit of a discussion on a few of the items.

The first thing I wanted to note is that the comment we made on the Priority 2 recommendations for Phase 2 did make a rather dramatic request that ICANN suspend and re-evaluate the EPDP moving forward because of what may be coming from the European Parliament and potentially from other governments. And there hasn't been a lot of echoes for that approach so far but it is the position that the BC adopted on January 22. So in our conversations about the EPDP, we want to talk about the need for a pause and re-evaluation.

All right. Let me move on to the open public comments. We have three open public comments, plus the European Commission work that Ben Wallis and the rest of you who have volunteered on. First thing up is comment on ICANN's draft Operating and Financial Plan for Fiscal Year '22 to '26 and the Operating Plan and Budget for next year. I want to thank Tim Smith, Lawrence, and Arinola. They've drafted the attachment that says ICANN FY22. So, Lawrence, Arinola, and Tim, is there anything you want to talk to your colleagues about? Because this comment period closes next week. We will not have another BC call before then. I'm happy to display the comment while you give us any highlights about what's going to be in that comment, okay?

TIM SMITH: Steve, it's Tim. I'll just take the lead here. I provided the basic comments on FY22. Most of my comments really have to do with clarifying funding and also understanding the expense details a little bit better. So I won't

go through all of that but I would say that in my point number six (VI) that I'm asking for a little bit of input related to understanding better the pattern of registrations as part of the funding for the coming year. So people who may have a better handle on that, I would invite their comment on that.

Other than that, the point seven (VII) that I have there deals with constituent funding. So I noted there are 49 GNSO representatives that are being funded, and that's consistent with previous years. But I guess I pointed it out just because I thought if there needs to be a change or if there's any potential for change, we should be making that request. The rest of that comment actually has been clarified, which had to do with increase of 34 GAC representatives for the third meeting of the year. It turns out that that is actually something that is dealt with elsewhere in the budget, which has been clarified with some clarifying questions that came out at the end of the month.

So I'll be making some changes to my comments. However, one of the things I would want to draw to everybody's attention is later in the report—and Lawrence and Arinola dealt well with this—having to do with the '22 to '26 budget and there are 15 operating initiatives that the budget identifies that ICANN Org has identified. Many of those have been dealt within the comments so far but there are a few places for additional comments so I would invite anybody else to make comments on those areas. They're saying all the expenses are going to be within those 15 operating initiatives so we should make sure that we're comfortable with all of those. And that's all I have to report. Over to Lawrence or to Arinola for anything else.

LAWRENCE OLAWALE-ROBERTS: Thank you, Tim. Like Tim has highlighted, there are 15 operational focus in the plan and making an attempt to try and address each and every one of those points. The plan that was presented this year has a base budget, has a low budget, and a high budget. And it's expected that at the height of the budget, ICANN shouldn't go beyond that for each of those items. However, the plan does not stipulate what goes into the calculations to be able to help us arrive at a judgment call if the funds allocated will be enough to drive each and every one of those distinct operational initiatives.

So in the comments we've highlighted that there's still a need for some depth of clarity in terms of the information that is provided. Using this opportunity to also highlight that there are areas especially within each of these operating plan that there might be a need for some kind of policy. Take, for instance, the first item that revolves around the KSK rollover, we still don't have some insight into how the budget, the funds that have been committed to that and submit that there needs to be policy around the KSK that should be driven by the community, which will definitely go back to the remit of the GNSO.

We intend to add some more insights into each of these 15 defined operational areas but like Tim has highlighted, especially with regards the BC for the FY22 budget, it was stated that 6 out of 32 requests that came in for the Additional Budget Request were moved to the core ICANN budget. Meanwhile, we have had ICANN funding the production of the BC newsletter since FY13 and this is yet to move into the core ICANN budget. We are hoping that there will be some reasons provided

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for that. That will be my bit for now. I don't know if Arinola wants to say anything.

STEVE DELBIANCO: Very substantial comments so far and you still have another few days to finish it up and solicit member input. Arinola, anything you wanted to add right now? Okay. Great work so far. I will circulate a last call three days before it's due and that will give folks an opportunity to weigh in in case they have anything more to say. Thanks again for the great work on that. I'm going to go back to the Policy Calendar.

On the Policy Calendar, move on to the second one. The SSR2 final report was issued. The comment period is open until the 9th of March. They hosted a webinar today. I listened in on it. This is a very dry and difficult topic and it's essential to have a dynamic speaker when you try to bring this stuff to everyone's attention. Fortunately, we have a couple of dynamic speakers from the BC that are on the SSR2: Denise Michel is vice chair and Scott McCormick is on that panel. We will look to Denise and Scott to help us identify elements of the report where some support from the BC would help to elevate an item that is of a high priority to the BC. But after all, Denise and Scott did all the work for 14 or 15 months on this. So we're not going to ask them to take the pin on the BC comment, and that's why I want to ask for some volunteers. We did a comment in March of 2020 and Mason Cole, Susan Kawaguchi, Ben, Roger, and Yusuph were the ones who contributed to that. It was a very substantive comment.

Can I get any volunteers to put up their hand and help us with this SSR? So it covers root server, it covers ICANN Org, security and stability operations, and take a hard look at whether the SSR1 recommendations were implemented properly as well. Looking for some hands. We just need a few volunteers. Folks who have some IT security background would find this to be an easy one to lift. No volunteers yet. We will need some to get this done.

JIMSON OLUFUYE: Yes, Steve. You can put me on that.

STEVE DELBIANCO: Jimson, thank you, sir. Anyone else willing to help Jimson on SSR2? Jimson, did you watch the webinar this morning?

JIMSON OLUFUYE: Sorry. I didn't get to know there's a webinar.

STEVE DELBIANCO: Jimson, look at the link. The link is right here. After the call, you can go ahead and listen to it. It's only one hour long and they walk through the entire report, giving us some highlights. But I am going to ask Denise and Scott to give us some guidance on parts of it that need to be emphasized. Thank you, Jimson. I don't see any other hands right now but I'll continue to recruit on that one.

Let me move to the next one. This is a comment that doesn't close until the end of March. It's on the EPDP Phase 2 recommendations for Board consideration. This is not the same thing as the Priority 2 recommendations, those five that we commented on last month, and then covered that at the beginning of the call. This is different. This is a handful of recommendations that came out of EPDP Phase 2. If you recall, the BC voted no on a number of these recommendations because we didn't think that the SSAD centralized system was going to be fit for purpose and worth the effort.

So at this point we need some volunteers to help draft this comment. This is an important one. It goes to the Board and it's going to inform the way that the Board would vote on these recommendations when they get over there from Council. We have a joint minority statement that we did with the IPC. I have it highlighted right here. That is where most of the information will come from. In other words, our comment on it to the Board is to elevate and focus the things that we raised in the minority report. We may well be able to add in our concerns about NIS2 in our calls for a re-evaluation of EPDP, given the pending changes in European law.

So John Berard is going to help with that. Thank you, John. Who else wants to weigh in? Need somebody who can raise a hand or put it in the chat. All right. Thank you, John.

Okay. Next up is the European Commission. It's currently accepting feedback—a defined term for them—on their proposed NIS2 Directive. As Mason indicated at the top of the call, on the second half of today we're going to have Ben Wallis who's taking lead on a very expansive BC

drafting team. Ben is going to walk through his points. When Ben gets up to speak about that, I'll return to this part of the agenda. But we'll save it until then.

All right. With respect to the WHOIS policies and compliance with GDPR, we continue to meet these EPDP Phase 2 meetings. We have one this morning that lasted an hour. It was characteristically frustrating because we're unable to get much movement on getting the contracted parties, the NCSG, to consider allowing us some means of correlating multiple registrations to the same registrant. We don't necessarily need to know their identity. We just want to know multiple registrations for stopping an attack or Denial Service Attack or trying to track down multiple registrations belonging to the same individual. We're also getting no movement at all on the opportunity to make a distinction between registrants that are legal persons and registrants that are natural persons. That has been a tremendous frustration. At that, I'd happily give Mark, Margie, or Alex an opportunity to weigh in with your members on the current state of play in the EPDP. Any of you? Go ahead, Mark.

MARK SVANCAREK: Thanks. Normally, I'd let Margie go first but I don't think she's here today. As Steve said, we have two main topics on the 2A EPDP. One is about unique contacts, which might be pseudonymized or anonymized, and the other is about natural and legal distinctions. These are very narrowly scoped. It's really about the feasibility of the unique contacts or about the feasibility of natural and legal distinctions. On the former, what I thought was going to be a short and productive discussion about

"What do we mean by these terms? Let's define the terms" has turned into its own sort of a rat hole which distracts from the real topic, to the extent that even today Dr. Milton Mueller, who is in the NCSG, pointed out, "Why are we still fighting about the definitions? Why don't we talk about what the real issues are?" And the real issues in his mind are that we are attempting to correlate records which he believes should not be policy. He's not making the point that it's unlawful necessary. I mean, he's willing to fall back on that but his real point is that he just does not support it and will be opposed to it. Over on the contracted parties' side, we see a spectrum of people who think it is unlawful for some reason and people who just simply don't want to implement it as policy.

That is not a very productive line. We do have GAC stepping forward with proposals that are very concrete and we had discussions about them. This is what passes for progress in this form. This week we did not talk about the natural and legal distinction. That was the subject of last week, maybe again next week. But similar problems, everything is very narrowly defined and people don't want to do it anyway and we don't have the vote. So we just keep trying to move the ball forward a little bit inches at a time, keeping it from going backwards at all.

There was another topic today that was interesting to me. Because there's a second use case for these unique identifiers and pseudonymized or anonymized, and that was just simply improving contactability. As many of you know, in Phase 1, contracted parties were allowed to provide a web form for contacting a registrant. And these don't really work very well. There's no guarantee that they were delivered. There's no delivery receipt. But worse, the way that they're doing is unstandardized. Some of the larger registrars either are

providing very, very small forms, 100 characters perhaps. Some of them don't provide any text fields at all; it's all just drop-downs. So they're not very useful at all and there were a lot of disingenuous comments on the call about, "We'll just tell Compliance." I think you can imagine how Compliance would treat something that is within the letter of the policy, yet useless. So that was another conversation we had.

I think we may have made a little bit of progress on that because there was an agreement that if it's not working, we could define some sort of a standard. I think in the end, it will be ruled that that is out of scope because that's pretty much the game plan here. But if we do have at least some discussion on standardizing these forms, I guess that would be some sort of progress. Alex, is there anything else I missed?

STEVE DELBIANCO: Well, Mark and Alex, I wanted to mention a setup for Alex. Because Alex has done a lot of prep work on trying to bring the Expert Working Group conclusions regarding some of this registrant information from the 2014 EWG. Susan Kawaguchi, you're on the call and you were part of that EWG, and you'll be glad to know that today Steve Crocker joined the EPDP Phase 2. He's representing SSAC. He was already somewhat vocal today and I have a feeling he'll be a huge ally particularly because the EWG was his brainchild. So, Susan, I want to ask Alex to talk a little bit about the potential of bringing in EWG items and invite you to start to help us with that. Alex? Alex, anything you'd like to add? I see him in the Participant list. But, Susan, if it's possible, please join our next prep call which will occur probably next Wednesday morning. It will be an opportunity to help us shape the parts of the EWG that we can bring in

to these conversations, especially because Crocker is on there. There's an opportunity for him to back us up on that. Mark Svancarek, go ahead.

MARK SVANCAREK: I can speak to that EWG thing, not to the extent of Susan or Alex, but within it there was a concept of—I forget the exact term but they were identity validators. So you could count on the identifier coming from an identity validator basically as some sort of a pseudonymized contact. You wouldn't have to be transmitting any personal data necessarily because the identifier, this ID provider, has that information and you're just getting some sort of a pseudonym. The contracted party might not even have a way of looking at that themselves. This is a concept that we've been pushing forward as just sort of a general. You should find an identity provider and outsource this work to them. So this was our first toe in the door on that topic because it does go back to the EWG, which I think was a pretty well accepted effort. Stephanie Perrin from the NCSG worked on it with some caveat and some reservations. But it has a certain credibility and it has more credibility now because Steve Crocker has joined the SSAC. So we'll let you know in future updates whether we get any traction of it or not.

STEVE DELBIANCO: Thank you, Mark. All right, Alex and Susan, I do hope we can get your help on that.

Let me move on to the Council channel where Marie and Mark are our councilors. On our last call, we discussed everything that happened at

the January 7th Council meeting. There is something new here that we added, which is that on the 22nd of February, the full Council and Board are going to be discussing Standardized System for Access and Disclosure. That is a very vital subject for the BC. I think Marie is going to see whether or not we'll be permitted to have observers on that call. Otherwise, it would be closed just to the Board and Council. With that, I'll turn it over to Marie and Mark.

MARIE PATTULLO: The good news on that, Steve, is that I e-mailed staff this morning and they replied that, yes, they will make it open to observers. They'll let me have the link. As soon as I have the link, I will of course forward it to you. I would very much hope that our experts can join that call for the usual reasons, so that Mark and I can be sure that we say what you need us to say.

STEVE DELBIANCO: Marie, when you get that link, send it directly to BC private.

MARIE PATTULLO: Yes, will do.

STEVE DELBIANCO: Then as usual, anybody who wants to join the BC/IPC Skype channel is able to speak to Marie and Mark while in they're in the meeting in real time. I think you found that generally useful, Marie, right?

MARIE PATTULLO: Incredibly useful. Really, really useful. As we keep saying, we're on Council to represent you and you guys are the experts. Anything that you can feed us in real time is extremely valuable, extremely valuable. The rest of Council is going to be very quick. There's not that much to say. The meeting is next week. Steve has put into the Policy Calendar the main parts of the agenda. There hasn't been an awful lot of discussion I can share with you. I will let you know what happens next week after the Council.

The only other thing is you may have seen just before the call I sent to you an e-mail that ICANN Brussels has got together with European Commission and is doing a two-and-a-half hour webinar on February 26, looking at the DSA—that was the Digital Services Act—and the cybersecurity directive, which is the one that may well give us the legal basis for WHOIS.

So I've already sent that right to BC private. If you can attend that, please do so. Please get in with questions as well. That could be a really interesting session, which will lead into what then we'll talk about later. But apart from that, Steve, I don't really have anything else right now.

STEVE DELBIANCO: Thank you, Marie. Any questions for our councilors? Again, you can listen in. I have a link there on the agenda. If you look at the agenda right here and click on that, you'll be able to click and listen in on the policy discussions that are going to happen at Council on the 18th of February. Again, Marie and Mark will listen in on the BC/IPC Skype

channel so that we can ask questions or make suggestions to them in real time while they're in the Council meeting on the 18th.

All right, I don't see any other hands up so I will scroll down to Waudo's section of the Policy Calendar, which is the CSG or Commercial Stakeholders Group. Go ahead, Waudo.

WAUDO SIGANGA: Thank you, Steve. I think I'll be very quick. The CSG's activities are currently centered on preparations for various meetings related to ICANN70. In chronological order—these are fast. We have a meeting on the 18th of February with the GNSO appointed Board members. I think an invite has been sent to all members of the BC to participate in that meeting to be at 19:00 hours. We have identified four main topics that we want to discuss on that day. The first one is we want to discuss with those Board members how we should do the engagement with them in terms of enhancing coordination, accountability, and transparency. Secondly, we also want to discuss with them questions relating to the ATRT holistic review, as well as the GNSO 3 review. Thirdly, we'd like to discuss with them regarding a letter that came from ICANN Org regarding the inability for .org to run the PICs properly. The PICs are the Public Interest Commitment in the new gTLDs. Then fourthly, we also want, if time permits, to discuss on the ODP. That's the Operational Design Phase in the PDP process.

So what we are requesting from our constituencies, in this case, the BC, is maybe more specific questions that we can be able to ask those Board members on that particular day. If we can get those questions in

advance, perhaps we can look at them and see how we can fine tune them so that that day the meeting goes in a smooth manner. If you have some questions related to these four topics, perhaps you can send them over to myself or to the alternate who is Mason, and then we'll appreciate that.

The second meeting that we are planning for is the CSG meeting with the full Board, that is currently slated for the 16th of March. I think as you have seen from the Policy Calendar that was sent out by Steve, we have been given by 26 February by the Board to propose questions for the Board to answer. So if you have some questions that you'd like us to present to the Board at that particular meeting again, please relay them to myself or to Mason.

Then the third meeting that we are also planning is the CSG open meeting. Yes?

STEVE DELBIANCO: Let me just ask you, is it your impression that the Board wants to alter, they want to modify and change the way in which CSG interacts with them at the open Board meetings?

WAUDO SIGANGA: I don't have that impression yet. I think that is one of the good questions that we can give to GNSO appointed Board members. Since it will just be a small statement, I think they can be candid enough to be able to give us a clear answer to that question. I take that as an input in

terms of questions that we can actually give to that small segment of the Board.

STEVE DELBIANCO: All of CSG meets with the Board together. That means that the BC, IPC, and the ISPs have to somehow either divide or consolidate our points of view. It's a difficult relationship for you to manage because you're the CSG liaison for the BC. So I'd be interested to know whether the Board is okay with us dividing up our time into equal segments or are they looking to change the way that works as well. Thank you.

WAUDO SIGANGA: Actually, there'll be two meetings. There's another meeting that is the CSG with the full Board, and that one the time is actually divided up between the CSG itself and then the different constituencies. But for this first meeting that is between the CSG and the GNSO appointed Board members, we don't have that division. I think it will just be freeform meeting. As I said, even the constituency members are invited and they'll be able to also ask questions freely. But my request was that we need to try and get some structure to this meeting by having the questions in advance. So if we have members within the BC who think they have some questions related to these four areas of interest, then maybe they can relay them to me or to Mason, and we can present them to the CSG. We have a preparatory meeting on the 16th so we can look at those specific questions and see how we can ask them in a more structured way when we have the meeting with the GNSO appointed Board members.

STEVE DELBIANCO: Then I would recommend you send an e-mail to BC private right after this call, giving us the clarity that you need input from us by the 16th. I think that's what you're suggesting.

WAUDO SIGANGA: I'll do that. I'll specify the exact input that we are looking for. Thank you for that suggestion.

So that is the second meeting. Then we have a third meeting, the CSG open meeting. This one I mentioned last time, we are looking for innovative ways to make it more interesting so that we can attract participation. So far, what we have agreed on is to have a presentation on the Universal Acceptance and we are working on that. I'll tell you the date of that one in due course either by e-mail or maybe at the next meeting that we have.

The only other thing I can mention is that we have a BC proposal for ICANN70 plenary topics session. As Steve has indicated in the Calendar invite, this session will be on regulatory procedures in light of what recently happened in the U.S. and the European Union. For example, the EC Digital Services Act and the NIS from the European Union. So there's going to be a discussion on that. That was a suggestion. Mason has made the formal request. We're waiting for confirmation of that. There was also an issue because there was an earlier so-called community meeting that discussed a similar topic. So we're just waiting to see what reaction is going to be regarding our proposal from the BC.

So all these meetings are available in what is known as the CSG preparatory grid. I think Steve has included this in his Policy Calendar so you can have a look at that and you'll be able to see all the meetings in one place. Thank you. I hand it over back to you.

STEVE DELBIANCO: Great, Waudo. Thank you very much. BC members, do you have any questions for Waudo regarding our CSG coordination? Thanks again, Waudo. Mason, at this point, I will turn it back to you. I note that Ben Wallis is not listed yet as having joined the call. So when he does, I'll put the Policy Calendar back up and go to the section that Ben wants to speak up. Okay. Mason, all yours.

MASON COLE: Thank you, Steve, and thank you, Waudo. Very informative report as always. We are now on item number five of the agenda. This will be an opportunity to give Ben time to join the call. But item number five is Operations/Finance report from Lawrence. So, Lawrence, over to you, please.

LAWRENCE OLAWALE-ROBERTS: Thank you, Mason. Good day, everybody. On Finance and Operations, I will start with the ICANN community announcements that are open. Right now, volunteers are needed for the Advisory Group on ICANN's North America Stakeholder Engagement Plan. This is supposed to be a small group that had a timeline of February to May 2021 to finish the work that will be assigned for them to do. The timeline for nomination

of volunteers is for tomorrow. If you are interested, please kindly send a mail to the BC ExCom indicating your interest and wanting to volunteer for the Advisory Group. It's a group that's going to be working with the Global Stakeholder Engagement Team for North America to review the current plan that they have. Please, if you are interested, send a mail to ExCom later by the end of our meeting, between now and tomorrow so that we could review and well forward to the relevant ICANN lead for this.

Secondly, the application round for the NextGen for ICANN71 was extended and that will also be closing tomorrow. If this is of any interest to your network, please let them know that they have just one more day to apply.

Thirdly, is the one we spoke about in the last meeting, the ICANN leadership positions through NomCom for the ICANN Board, the At-Large, the GNSO, ccNSO. This is open until the 18th of March so there is still time to put in applications.

Next on our bill is membership. We don't have any new member currently. But we are again inviting members of the Business Constituency, especially those who are present here today to set a target of at least referring one company to join the BC. In the days ahead, we will definitely be [drawing] out our plans for an incentive program around this. We believe that as many of us that are able to refer for membership two or three other companies to the BC, you definitely will be getting some rebates, which we will announce which could include discounts to the fees that you need to pay in the coming

year. Anyway, let me leave it at that. The announcement that we will share will be much clearer.

In terms of our dues, we only have four members, four companies that we are waiting on to pay the dues for the current financial year. We will be reaching out to you again concerning this. Thanks for everyone. The compliance level is very high. Currently our membership stands at 63 and we hope that in the coming fiscal year we'll be able to double this number.

On the area of finance, the BC finance is judged to be stable. We don't have any serious worries. The Additional Budget Request that we worked on together was submitted before the deadline closed. We are waiting the outcome of the ICANN Board on each of those proposals.

With regard to the Interisle study, we have also fully paid off our commitment and we encourage members to make good use of the report. We will also be making some announcements on what we will decide to do as the BC with regards to this report.

Coming up to Operations, it's ICANN70 which is about a month away, we are going to be having a BC closed meeting in addition to the BC open meeting. The BC open meeting is going to be the week of the ICANN meeting itself, while the closed meeting is going to be the week before. This closed meeting promises to be very, very unique. We are going to have a session for BC social and it's going to be mandatoryó for everyone. We are going to appeal to have everyone on that particular day and in that meeting turn on their cameras. We'd like to see your beautiful faces, especially faces that we've not seen for over a year

based on the pandemic. So please start practicing. It's going to be fun. We will not let all the cats out of the bag right now but we have some very special features for that closed meeting.

Work is ongoing on the newsletter. Thank you for the submissions that we need. The newsletter is going to be about two to three pages over what it used to be. But this is acceptable since we will not be printing hard copies, which will not impart on cost of production. I will want to stop at this point for any questions we may have. Otherwise, I will yield the floor back to the chair. Thank you.

MASON COLE: Thank you very much, Lawrence. Questions or comments for Lawrence from anyone? Okay. I see no hands and the queue is clear. Okay. Very comprehensive report as always, Lawrence. Thank you very much.

We now have Ben Wallis on the call. So we are on agenda item number six, which is a briefing on the NIS2 comment strategy. Ben, may I turn the floor over to you, please?

BEN WALLIS: Yes. Thank you. I'm sorry for joining the meeting late. Steve is displaying on the screen the part of the Policy Calendar that relate to this item, which is providing feedback on the proposed NIS2 Directive that includes provision to enable better access to WHOIS data. We discussed this at previous BC meetings. I've now been put in charge of leading a drafting team. There's 11 of us on the drafting team, which is a very healthy number and we've got a good mix of people who've been close

to the EPDP who had discussions for the last few years and some people who are based in Brussels or have insights into the EU process.

So what we've done over the last couple of weeks is—I've talked to colleagues from Microsoft in Brussels and to Nick from Disney in Brussels, who are following very closely this particular directive to better understand the process and the timing for the legislative process. Sorry, there's too many processes there. So those discussions have informed a strategy which I'll talk to you in a minute of how we think the BC should approach its input to this draft directive.

We did also within the drafting team develop a very first draft comment and had an initial discussion on that yesterday. But given that we're kind of rethinking the strategy, we decided to start again with the second draft, which will be circulated to the drafting team next week. And then which I hope to be able to share with the BC ahead of our next meeting on the 25th of February. We're very confident that we are going to be in a position to adopt the BC position a good week or so before the deadline for the European Commission feedback process on the 18th of March.

I think I talked last time about distinguishing between the European Commission which has proposed a draft directive and the legislators, the Council and the Parliament, who will actually decide what the final directive looks like. And it is still valuable to provide input to the European Commission because they will be the brokers who will help to facilitate the agreement between the legislators on the final text. They will provide information to the legislators. So they're seen as the kind of primary source of information for the intention behind the directive and

the impact of any amendments to the draft text. But as I said, it's really in the hands of the Parliament and the Council on what the final text looks like. They are definitely a target audience for us.

We think we should be putting in a response to the European Commission's consultation, which assumes a good level of knowledge, given that we know the Commission has been following through the GAC and the other ones that inserted Article 23. The feedback that we provide to the Commission can assume that level of knowledge and can provide some detailed ideas about how we think Article 23 can be strengthened and clarified, as well as related definitions, which are in Article 4 of the Directive. What we provide to the Commission, we think should be fairly detailed.

On the other hand, the Council and the Parliament—as we already said on our call yesterday, you have to assume a very low level of knowledge. Some of them don't even know what ICANN is. The basic strategy we're suggesting is that what we provide to the Parliament and the Council in the next month should be at a very high level and it should be more educational in nature and explaining what WHOIS is and why it's important and, therefore, why Article 23 is important. And maybe giving kind of some high level suggestions for how it can be improved.

What we understand from colleagues in Brussels is that the Council aren't going to get to discussions around Article 43 for several months. And the concern would be that if we went in now with detailed amendments to how to change the text, it will go over their head and it will kind of lose the opportunity. So we want to take a two-stage

approach whereby what we provide in the next months will be much more educational, and then we will have some amendments that we can share with key players at the right time, which is probably going to be in the early summer.

So in the drafting team, we are developing two distinct BC comments. One that goes to the Commission and one that goes to the Council. And we're also developing what we think should be the amendment to the text and we would ask the BC to also adopt those. But we will be holding those back until we think it's the right opportunity to make the most impact with those amendments. Why don't I pause there and see if there are any questions.

STEVE DEL BIANCO: Ben, I have one for you. This is not a comment to ICANN. So the BC has some flexibility on how we structure this. All the work that's going into this large drafting team, think about surfacing a multi-part comment for the BC. So the first part would be the exact feedback that goes to the Commission, and then draw a line in your document and have the rhetoric and communications that you want the BC to make to the European Parliament and the Council of Ministers, which would happen later. So the BC can approve—since we're going to read and review, we want to have the opportunity to approve all of that as BC position that then you can use when the time is right. That is a lot better than starting another 14-day process of drafting and getting the BC to have seven days. Because members need seven days to review something before we approve it to become BC position. And we are interpreting our charter broadly, to be able to comment on something that even though

ICANN isn't the recipient of the comment, it could end up affecting ICANN policy that's relevant to the BC and fits within our charter. I'm just suggesting that we structure away that all the work surface both EC and European Parliament targeted comments and we can approve them at once.

Then the second thing is that Brian King and I discussed this extensively last weekend about the need to try to achieve some urgency that when the European Parliament and any nation adopts it, it needs to be a must publish or must disclose for the non-personal information. Because ICANN's current policy is that they may disclose and they may publish. ICANN might take the position that the current policy is just fine. Any registrar who feels that they must can follow the ICANN policy that says that they may. I don't know exactly how to solve that. And it might be necessary to plant something in the NIS2 that drives the need for ICANN to adopt policy that's global and affects all registrars/registrants around the world as opposed to just those whose registrar happens to think that they might be subject to the new NIS Directive in their particular jurisdiction. Thank you.

BEN WALLIS: Thank you. Yes, that's very helpful about how to structure what we put to the BC in the next couple of weeks. That was my hope, that we'd be able to have everything adopted and then use it at the opportune moment. I think it's still helpful for us to reach out to the Parliament and the Council, or at least the key players that we've identified in those two bodies at the same time in early March as they're starting to begin thinking about their process. And in that comment, we kind of make

ourselves available for providing further information and indicate that we will provide some more specific details later on in the process.

And in terms of who else we share it with, I just wanted to come back to—I think it was a suggestion you made a couple of weeks ago, Steve—we do plan to share with the ICANN Board what is put into the European Commission because the comments the European Commission will be published. So that's something we can shift-share with the ICANN Board. We identified that the GAC members who represent European government, they're the ones that are going to be the officials within the national government closest to this issue. We intend to reach out to at least what we know are like-minded GAC officials with our input to make sure that they direct it into the relevant people within their government to inform the Council discussions. So that will be another target for our outreach.

I think a lot of the people who follow WHOIS would have been on the EPDP call this morning. I was actually on the ICANN's webinar on EU and U.S. regulatory developments. Elena was one of the speakers there and she referred to NIS2 Directive. One thing I picked up was that she said ICANN is planning to provide comments to say that WHOIS data should be recognized as an important public interest. And the reason they plan to do that is because as with the GDPR, data transfers to third parties outside of the EU will be an issue. And if it's recognized that WHOIS data is important public interest data, that would help facilitate these data transfers in and out of the EU.

MASON COLE:	Other questions for Ben? Okay, Ben, thank you very much. Very comprehensive report. It looks like we've got a broad drafting team and we'll look forward to draft comments very soon. Anything else you'd like to add?

BEN WALLIS:	Nothing else for me. Thanks.

MASON COLE:	Okay. Thank you very much, Ben. All right, colleagues, we're 10 minutes before the top of the hour and we're doing fine on the agenda and meeting time. So let's go to item number seven, where we have an open floor for any issue that a BC member would like to raise. Is there anything that wasn't covered on the agenda today that someone would like to raise in our meeting? I'm not seeing any hands. Mark tells us there are very strong storms in Brazil and no power until now. Mark, hope you're doing all right. All right, ladies and gentlemen, any other business to cover before the end of the meeting? Again, no hands in the queue. So I therefore yield nine minutes back to your day. Thank you all very much for attending. Next meeting is Thursday, 25 February. Watch for your meeting notice for that. The BC is adjourned. Thanks, everyone.

[END OF TRANSCRIPT]