
BRENDA BREWER: And good day, everyone. This is Brenda speaking. Welcome to the BC membership call on the 2nd of May, 2024 at 15:00 UTC. Today's call is being recorded and is governed by the ICANN expected standards of behavior. Please state your name before speaking. Have your phones and microphones on mute when not speaking. Attendance is taken from Zoom participation and we do have apologies from Alan Woods and John Berard. And I'll turn the meeting over to BC Chair Mason Cole. Thank you.

MASON COLE: Thank you, Brenda. Good morning, good afternoon, good evening, everyone. Mason Cole here, Chair of the BC. Welcome to our call on the 2nd of May 2024. Good to have you all on the call. The agenda is in front of you on the screen. We have a busy day today. Before I get started, are there any updates or additions to the agenda, please? All right. No hands.

First order of business is to welcome a new member. We have Cheryl Miller with us who is with the USCIB. And as you might know, our friend Barbara Wanner has retired from the USCIB. Cheryl is our new BC member from that organization. Cheryl, good to have you. Would you like to say hello to the BC?

CHERYL MILLER: Hi. Yeah, it's really nice to see so many familiar faces. It's awesome to be back. As many of you know, I was a part of the BC through Verizon.

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And the BC is a little bit like my favorite Eagles song, Hotel California. You can check out any time you like, but you can never leave. So it's great to be back and I look forward to working with you all.

MASON COLE:

Good. Thanks, Cheryl. It's really good to have you back. So welcome back to the BC and we're looking forward to your contributions. All right, everybody. We have several agenda items to get through today. Tim Smith is going to provide our finance and administration update first as he has a conflict later in the hour. Then item number three is a follow-up on the email I sent out to the BC yesterday afternoon, my time, about participation in an IRP. Steve will review the policy calendar and then we'll move to AOB. Just a heads up, I have a hard stop at the top of the hour. If we run over, Steve will assume the chair at that time. All right, Tim, are you with us?

TIM SMITH:

Yes, I'm here.

MASON COLE:

Good morning. The floor is yours.

TIM SMITH:

Thanks. And thanks for pushing me up on the agenda. As some of you know, I manage an industry association and I have a board meeting to run once a month and they like to meet on Thursdays. So while I try to avoid conflicts, I'm not always able to do that. So my apologies.

Just circling back to Helmut's comment at the beginning of the call, there is an onboarding committee and which has not been very active lately. So Helmut, if you send the note that you were going to send to Mason and copy me, then I will loop in the onboarding people to give you some guidance. So thanks for bringing that forward.

So let's move along. On our last call, we were talking about nominations opening for a bunch of different seats. And so we've looked into that. Brenda and I had looked into it. And we do have a nomination period that opens tomorrow and is open until the 16th of May. And that is for a GNSO council representative, one GNSO council representative and two NomCom seats, one for large business, one for small business.

The other executive positions that had been talked about, we will move that to later in the year. What was complicating us was travel requirements for the funded positions where they need 120 days' notice. So we don't need to be concerned about the executive who will be taking their positions in 2025, in January 2025. We do need to be concerned about the officers who will be taking their positions in November at the annual general meeting in Istanbul. So nominations open tomorrow for one GNSO council rep for a two-year term and for two NomCom delegates, one for large business and one for small business. And it's Mark Datysgeld who will be leading the GNSO rep position. Mia Brickhouse has been in the NomCom position for large business and Vivek Goyal has been in the small business users. So looking forward to hearing from people who are going to be nominated by the membership. And we'll see how we go through the coming two weeks. I think Brenda, you and I talked about recirculating the note, which was very well written and lays out all of the requirements very,

very well. Brenda sent that out at the beginning of the week and I think we'll send it out again today or tomorrow to bring it back to the top of everybody's mailbox for those who are interested in nominations.

MASON COLE:

Tim, I think Vivek has a quick point on the NomCom seats.

TIM SMITH:

That would be great, actually, Vivek, if you could jump in on that.

VIVEK GOYAL:

Sure. Thanks, Tim. Based on the new bylaws that are being implemented for NomCom, Mia and I are not eligible to apply again. Unfortunately, I mean, I have completed two terms, so I'm ineligible anyway, but Mia is only done one term, but because of the new laws, she's not eligible to apply. Few of the GNSO seats next year in NomCom will only be one year as compared to the new requirement of all, everybody being appointed for two years. And those who do serve next year are not eligible for the subsequent round. So the GNSO will decide which of three of the seven seats will only serve for one year. And I'm not sure when the GNSO council is going to announce that, but if they pick one or the two seats that the BC has, then those who are appointed from the BC will only be able to serve for one year and not two years as the other seats will serve.

So secondly, this will be a fresh NomCom, so there will be no experienced members moving on from this year to the next year. So there was a request from the NomCom operations team that they

would prefer to have candidates who have previously served in the NomCom, so they can bring that experience in and make it more smooth functioning. So if you're planning to nominate somebody, I would request you to look at somebody who has already served on the NomCom once, it will help the BC as well as the NomCom. Thank you.

TIM SMITH:

Thanks very much. Any questions for Vivek? Okay, let me move on. As I say, the BC officer elections will probably take place in August or September, early October. With those seats to be taking their new roles January 1st, 2025. We are planning an outreach in Kigali and there has been some planning meetings underway. And we have another planning meeting on Monday with GSE. So thanks to Tola and to Segunfumi and to Segun Omoloso who have all stepped forward to assist in organizing or actually lead the organizing of the outreach.

We're looking for the outreach to take place on June 11th, which is the Tuesday. And in a discussion we had last week, we felt it would be good to have the meeting on site at the convention center adjacent to the BC membership meeting so that people who were already in the building attending the outreach could attend the BC open meeting.

GSE at this point is preferring a morning meeting that day and offsite. So we'll be discussing this with them at the meeting that we're holding on Monday to get it organized. So we'll keep you abreast of what's happening there.

And then other than that, I guess from a finances standpoint, I'm still working on wrapping up or pulling together all of FY24 and working on a

budget for FY25. And so my plan is actually to spend Saturday and Sunday this week pulling that all together and then being able to share it with appropriate parties, certainly the finance committee and the BC ExCom. And I don't have anything else to report really on finances other than we still have money in the bank. So that's where we're at. Questions for me?

MASON COLE:

Any questions for Tim? Okay. All right. I don't see any hands. Tim, thank you very much. All right. Good luck with your meeting. All right. We are now 13 past the hour. I want to raise in agenda item number three, an issue that as I pointed out, I sent to the BC private list yesterday. And this has to do with a fairly complicated and I apologize for the length of the email, but I wanted to be comprehensive. There's a fairly complicated issue that's been raised within the community, specifically within the CSG following a request for reconsideration that was filed earlier this year by the IPC.

This has to do with the ICANN board's recent decision to, I'll put it as delicately as I can, but basically to legislate around some ICANN bylaws. You may have read some coverage about the issue on industry blogs, but this has to do with the recommendations made by the cross community working group on auction proceeds, which made several recommendations that seemed to be accepted first by the board, at least until last October when the Hamburg meeting took place. And at the time, the CCWG had recommended an amendment to the ICANN bylaws, which requires community consent, in order to deal with what would be challenges to decisions about the disbursement of some of

the auction proceeds, which as you know, totaled more than \$200 million. It's a significant amount.

So the board has seemed to accept that recommendation at first, but then they passed a resolution that said they would not amend the bylaws, but instead would build protections into the terms and conditions for applicants for some of that money. And that would protect against misuse of accountability mechanisms, but only by grant applicants. It doesn't really protect against the invoking of those mechanisms on the part of unsuccessful applicants who want their reconsideration of refusals of a grant request. So that's the outcome that the CCWG was trying to avoid in the first place.

The board has said, the IPC challenged that decision in a request for reconsideration. That request for reconsideration was dismissed by the board accountability mechanisms committee, which said that the IPC had no standing to bring the RFR because they hadn't been harmed by a decision, which is really putting the cart well before the horse. So this is a big concern for the community. The board really shouldn't be in a position where it can decide which of the community's accountability mechanisms apply to itself and when, but that's really what it's doing.

So the IPC has contacted CSG constituencies, including ours, plus some others in the ICANN community. You may have seen some reporting that the registries and the registrars have lodged their objections to the board decision as well. We're being asked to join the effort in two potential ways. One is to lend our support to what will become an independent review process where a third party will be brought in to mediate between the board and the community to see if the decision

can be changed. And then there may be a financial commitment of some kind. The amount is unknown at this point, but there could be some money that we need to lay out to help fund this effort. So far, the IPC has been paying all the bills and they're looking to share some expenses.

So the ExComm has taken a look at this situation pretty carefully. We're recommending that the BC does join the IRP effort. We would file a formal comment with ICANN and then join, as I mentioned, join the IPC in the two ways that I just mentioned. So this is on the agenda for discussion today. I'm asking that we keep this discussion private to the BC for now so that we can arrive at a decision as a constituency. And I'd like to open the floor for a quick discussion on this. So Zak, your hand is up. Please go ahead.

ZAK MUSKOVITCH:

Thanks, Mason. So two questions. One about the IRP procedure, but the first one is, just want to find out from you some clarification on what the issue is so I get a decent handle on it. If an applicant is part of the application process for these grants, agrees not to use this remedial procedure, what is the issue? Because doesn't that end the story? Why can they still avail themselves of the procedure if they're unsuccessful? Thanks.

MASON COLE:

Yeah, thanks, Zak, for the question. I'm sorry, would you go back over that? Because I was typing to Chris.

ZAK MUSKOVITCH: Yeah, yeah, yeah, sure. No problem. I'm not sure if I understood it myself. Let me try this again. So if an applicant, originally I understand that the board was going to, the ICANN board was going to require applicants to agree not to use the dispute resolution procedure in the event that they are unsuccessful. And that was proposed in lieu of a bylaw change. Am I correct so far?

MASON COLE: Yeah, so what the board is saying, according to my understanding, is the challenge procedures built into the bylaws, the board does not want those to be available to an applicant who's unsuccessful.

ZAK MUSKOVITCH: Gotcha. So if an applicant is unsuccessful, and if they've already agreed as part of the application grant process not to use these appeal procedures, what's the problem with that solution?

MASON COLE: The issue with that solution is that the board has effectively decided we as the board don't want that accountability mechanism to apply, even though those challenge mechanisms were agreed upon by the community. So we're concerned that the board puts itself in a position where it can pick and choose which accountability mechanisms apply.

ZAK MUSKOVITCH: Okay. And so what are we suggesting should be the appropriate procedure if a grant applicant is denied the grant? Should they be able to invoke this procedure to appeal it under the bylaws?

MASON COLE: Yeah, so I'm just going to read my notes here and make sure I answer your question correctly. So what the cross-community working group said was they were concerned that an unsuccessful applicant might use those accountability mechanisms like the RFR or the IRP to challenge those decisions that they don't like, which would fritter away time and money from the fund. So the CCWG recommended that ICANN update its bylaws to exclude the grant program from those mechanisms.

And so the board accepted that at first, and then it passed a resolution that said it would not have been the bylaws, which would require them to go back to the community, but instead would build those challenge protections in terms of conditions for the grant applicants. So again, what we're trying to avoid is the board saying, you know, we're going to tell you which accountability mechanisms apply and when, when the community put those procedures in place on purpose.

ZAK MUSKOVITCH: Okay. So we want the board to revert back to its original position that an unsuccessful grant applicant can avail themselves of the accountability mechanisms in the bylaws?

MASON COLE: So maybe, but what we really want is clarity on the idea that the board can't pick and choose accountability mechanisms or discount accountability mechanisms when they so choose. So the eventual procedure for challenging an application or a grant application is not secondary, but the real issue is the board shouldn't grant itself the power to excuse itself from accountability mechanisms.

ZAK MUSKOVITCH: Gotcha. Sorry to dominate the discussion, but this is really helpful. Explain it at least to me. So the thing I still don't understand Mason is that I get the concern and I'm sympathetic to the concern, but if the board is saying that, listen, we don't want to have like 200 unsuccessful grant applicants tie us up with accountability mechanisms, what do we say to that?

MASON COLE: Yeah, that's a good question, Zak. So we're not quite far enough down that road to make a determination yet. So I'm going to have to defer on that question.

ZAK MUSKOVITCH: So the second thing is about the procedures that from, as far as I know, these things, once they get rolling can cost hundreds of thousands of dollars.

MASON COLE: An IRP you mean?

ZAK MUSKOVITCH: Yeah. And so, so whatever the, you know, the BC and the BC board decides on this, which is fine with me, that might want to consider some kind of a caveat with the agreement with the IPC that, you know, we get into like the \$200,000 range or something, whatever the number is, that they may not be able to count on our support.

MASON COLE: Yeah. Well, thank you for raising the money issue. You're right. We only have so much money in the bank and we have in fact told the IPC that we need to be careful about whatever financial support we do lend if we decide to do that. So I don't want you to think that the tab would be run up irresponsibly in a way that would hurt the BC's financial position. That's not the case.

ZAK MUSKOVITCH: Gotcha. But just, just like this can be very expensive litigation if it goes to arbitration, et cetera.

MASON COLE: Yep. Thanks, Zak. We have a queue. Ching, then Andrew, then Steve. Ching, please.

CHING CHIAO: Thank you, Mason. And thank you actually, Zak, for those great questions. So I actually wanted to just to have two points built on what

you just, you know, discussed. Also I'd like to, just to clarify that, I mean, just to let you guys know, let you all know that I serve as the co-chair, one of the co-chairs, but I was appointed by the ccNSO back, back in 2017. The only two points to be made here, I mean, actually number one is that since it's a CCWG, so this recommendation was, so this particular recommendation seven was extensively discussed during that period, including Sam Eisner and also Maarten and Becky both on you know, I mean, they both participated in the work, work extensively. So I think that was a kind of a common understanding built by not only the community, ourselves, but also including the staff and also the board member and reaching that particular recommendation seven to, I mean, that particular recommendation to suggest a bylaw amendment. So that's number one.

Number two is that taking from another point of view is that, so if you look at the section point, so it's, so section 4.1, there's a couple, actually there's a couple ways for, I mean, from the community to suggest how this can be implemented. So right now ICANN choose to implement a kind of a new internal department to do this. So that actually creates this current question we have. So in the report, they will actually, there was another recommendation suggesting that ICANN set up a new ICANN quote unquote foundation, which may offers a more like a kind of like a firewall for, you know, any like a triggering of the RFR. But when you're going down to that particular path, meaning the independent ICANN foundation path, this eventually costs much more money and also a lot of other consideration, legal and also for judiciary liability involved. So that, I think that part, the ICANN foundation option is being, not being considered at the moment. So I guess there's a lot of,

you know, kind of things to actually to juggle here, but I just like to point out now. So let me stop here.

MASON COLE:

Thank you, Ching. That's helpful commentary. Indeed, there are a lot of balls up in the air right now to juggle and we're coming around to trying to understand the full picture as a BC. So the email that I sent yesterday has as comprehensive an understanding of the situation as we have. The IPC is sort of in the driver's seat on this right now, but again, they're looking for some support. So thank you for that input Ching. Andrew, please.

ANDREW MACK:

Thanks, Mason. Wow, this is complex. I mean, I've worked on some grant programs before and I worked on the JAS and all that and a lot of other kinds of similar things in the past. Just listening to you talk about it, it sounds like there are an awful lot of gray areas. A couple of things jumped into my mind right away. Obviously want the board to be consistent and not to be able to pick and choose what things they do or don't do. We don't want the cost to be out of whack. I can see it really, really easily going haywire. A challenge on a \$50,000 grant could incur half that amount in legal fees if we're not careful.

I'm wondering also how we're going to communicate this because if it's too easy to challenge, that's not good news. And if we can't explain what the grounds are on which a challenge could be made, that's going to feel unfair and you're talking to a lot of people from other parts of the world who are potentially making applications. And we want to

make sure that whatever we do is something that both makes sense, is communicable, and frankly, feels like it's private sector friendly. So whatever we do, even if we've got a solution that is legally sensible, we've also just got to think in terms of the way that we might be able to explain it to the outside. So I just throw that out in the mix as well. Thanks.

MASON COLE:

Thanks, Andrew. That's an excellent point. I would agree with you that it's important that we be as clear as we can be because this is a very complicated issue and we do need to make it clear to the businesses that we represent. So thank you for bringing that up. Steve Crocker, please.

STEVE CROCKER:

Thank you. I have not paid attention to any of the development of this fund and all the rules and so forth since many years ago when it was first being anticipated. So I'm coming into this cold as it were. But that said, my reading, and I may be imposing an interpretation on this, is that I'm guessing here I'll say, is that the board may have chosen not to go down the path recommended by the CCWG of making a bylaws change to exclude this program from the full set of mechanisms in order to be, as I say, chosen not to try for a bylaws change because a bylaws change is a heavy duty thing and takes a long time. That would be my guess as to the mindset. I don't know if anybody actually has any specifics about how that decision was made.

Well, when I was chair of the board, I actually pushed through two bylaws changes. It can be done. The bylaws changes that I made were not ones that turned everything upside down, but they were noticeable and made a difference. So I don't know what the current estimate is, but let's say it takes a year to impose those bylaw changes. And I can well imagine, oh my God, another year's delay before we get this program underway.

Well, what they're trying to do also in imposing these rules is also not have the whole program bogged down with all kinds of extra machinery. So you have your choice of how to proceed with that. And they seem to be wanting to have their cake and eating it too. Not taking the hit on making the bylaws change, not taking the hit on dealing with unsuccessful applicants making a big deal about it and going to war over each of these things.

For what it's worth, I have two thoughts. One is tell the board, "Get over it, you've got to make the bylaws change. Otherwise, you're going to get stuck with this. And you've taken many, many years already to do this. One more year. Yeah, that sounds very annoying, but get it done and respect the bylaws." That's point one.

Point two is we've got the most complicated and disorganized set of bylaws of any organization that's ever existed. And a bigger item outside the scope of this is why don't you do a fresh look at the bylaws and organize them in a cleaner and more effective fashion and move a lot of the machinery into subordinate kinds of documents and procedures. Thank you.

MASON COLE: Thank you, Steve. Very helpful perspective from your experience on the board. And for what it's worth, I think your read is probably right that for a lot of reasons, ICANN is looking to make progress on multiple fronts for a lot of reasons. And this is probably a matter of expediency for them, but it's a matter of accountability for the community. Steve Del Bianco.

STEVE DELBIANCO: Thanks. From the BC's perspective, we commented on this last month, thanks to the work of Lawrence and Margie. We suggested that the board was inappropriately expanding its powers to limit an accountability mechanism that we had worked to create through the transition and that there are other ways to solve this. This call is not the time to discuss other ways that the board could have done so. For instance, they could have attached to the grant application a condition that a grant applicant may not use XYZ accountability mechanisms with funds that they've received. There are many ways to do this, but the board chose to do, invited the opposition of the BC, the registrars, the registries and several other parties. However, the ALAC seems to support it.

This is a conversation about whether we begin the process of teaming with the IPC in a reconsideration request of the board's decision to proceed. Mason, I have to say that there's support to block, to oppose the board's position based on previous BC positions. I don't think we have to articulate exactly what the board should have done, but we

know that they should not have done. That's the point of the request for reconsideration.

What is the financial investment that the IPC has already made for which they are seeking some reimbursement from the BC or sharing in the BC? That would be one question. Another would be whether the costs going forward are something that the membership would support. I don't think you have the answer to either of those questions yet because this is preliminary. In all fairness, I believe those are the key two questions to go back and understand because those are the gating questions about whether we would take a position that involved financial support of requests for reconsideration. Thank you.

MASON COLE:

Thanks for raising that, Steve. I have a partial answer to that question and that is that the IPC put forward funds for the preparation of the initial RFR. They hired a couple of attorneys to do the work and there were some legal fees involved in that. They are not seeking reimbursement from the BC for those costs. They have given us fair warning that there may be additional costs involved in an IRP and according to our ability, are we in a position to help share some of those costs?

I have made it clear to the IPC, which is a well-funded organization, that we have to be careful with our own finances and that we would not put the BC's financial position in jeopardy, but if this is a matter of priority for the BC, we would share what we could. I don't have figures. Again, this is a fluid situation, but when I can reengage with Lori, who is

traveling right now, the chair of the IPC, then I'll have more to share with the BC.

STEVE DELBIANCO:

I would ask that Tim work with your finance committee to understand the exact position of what the BC reserves are, what the budget for the upcoming year entails, so that if you knew there was an absolute cap on what our funds could support, you would privately communicate that to the ExCom. I would not let the IPC know.

We would want to understand what do we have, what do we think it would cost, because there is an option that says that we don't participate equally with the IPC on funding. They may pick up the funding far more than we do. Another option is that we could solicit additional funds from BC members that were interested. We have options, but what we don't have yet is information. We don't yet know what kind of cost we'd be entailing. Mason, I believe we should proceed to have you talk with Lori, because the BC's position is that the board did make an error, and we'll be joined by the registries and registrars. I am troubled by ALAC's position, and I think we ought to do an outreach to Jonathan Zuck and the ALAC and Alan to figure out where that came from and whether that's something they'd reconsider. We'd count on them for support if the empowered community were involved.

MASON COLE:

Yes, indeed. Good advice, Steve. I will follow that advice as you just articulated it, so thank you. All right. Any other hands on this issue, please? All right. Thanks for the robust discussion on this. Again, this is a

fluid situation and one that's fairly complicated, so you should expect the ExComm to continue to communicate with the BC membership on next steps, whatever proposals might be for action that we take, and an update on any costs that might be incurred. Okay. I'm going to put item three to bed right now unless there's any other last-minute questions.

STEVE DELBIANCO:

Steve, I'll just simply add that we did change a fundamental bylaw. We did it in Homburg. It took several months, not a year, and it was a change to a fundamental bylaw that was a relatively easy one to make, and the empowered community sat in session in Homburg. I spoke at the session, and we showed that we can exercise the muscle of making changes to the fundamental bylaws. It's easy to do when the empowered community supports it, and ICANN legal supports it. [inaudible] grease the skids. If ICANN legal oppose the bylaw change—and as we said in our comment, they over-rotate to oppose things like this, they want maximum flexibility and minimum risk—it may be that it would be very challenging to get the bylaws change done. So let's not make it all about the bylaw. There are other ways to limit what a grant applicant can do. So it's premature to make those decisions right now. Let's not worry about causing a one-year delay in the program. We will not be responsible for that delay. If it happened, it would be, ICANN legal.

MASON COLE: All right. Thank you, Steve. All right, everybody. We are 22 minutes in front of the hour, so let's move to item number four, and it'll be quicker than usual, but Steve, policy calendar review, please. The floor is yours.

STEVE DELBIANCO: Displaying the policy calendar that was sent out yesterday, and I do think we can do it relatively quickly today. So since our last call, we filed two comments. We filed on the draft registry service provider, RSP, back-end provider handbook. A big thank you to Segunfumi for the original draft, and then John Berard, Alan, and Vivek all came in with some edits, and it was a lot about clarity and a lot about understanding the capabilities that one has to be an RSP, and I like the fact that we tried to suggest that RSPs ought to be considered not just from the incumbents, but from new potential RSPs. We were encouraged to apply so that we can diversify the number of providers in a competitive sense. That's one of the BC's key policy positions is to encourage competition in the provision of domain name registration and hosting services.

And then on April 29th, that's on Monday of this week, we commented on the renewal agreement for .XXX. Margie prepared a very clean, neat little comment that suggested there's a process problem here in that you get these bilateral behind closed door negotiations between a TLD operator, ICM for XXX, and ICANN legal, and the new contracts are presented as a fait accompli. I'm unaware of a single time that ICANN has made changes to a previously agreed negotiated change to a registry agreement. I'm not sure they've ever done it. So it feels too late, and Margie points out in the draft, there is already a PDP initiated

process called the registry services exception procedure, the RSEP. That's the process that should be followed since it involves far more public scrutiny as opposed to private negotiation. So we filed that comment. A big thank you to Margie for drafting. Margie, is there anything else you want to add to that? I don't see Margie right now.

Okay. So what's coming up? We only have one open public comment that I believe the BC needs to pay attention to, and it's the phase two initial report on the EPDP on internationalized domain names. Those are top-level domain names that do not include Latin script ASCII character set. They include non-Latin script characters, so we call them IDNs. That final report, the comments will close on 21 of May on the initial report. And last month, thanks to Ching's good work, we commented on the final report of phase one. So Ching has volunteered. We'll have a comment to you well within seven days before the due date. And Hafiz Farooq has also volunteered to work with Ching on this. And Ching, you've been a real leader for the BC on drafting comments on areas that you know a lot about, and very grateful, very grateful for that. And thank you, Hafiz, for helping. Any other BC members that want to join them on this comment? Okay, not seeing any further comments, but put up your hand if you need to get recognized, and I'll do that.

All right, turning to NIS 2, something we talk about every meeting, just in case there's anything new on NIS 2. And so I would ask, Marie, Sven, anything you want to add to the current transposition progress?

MARIE PATTULLO: Hi, Steve, this is Marie. I have no more information. I can tell you that I have shared, as you know, we have quite a detailed paper suggesting implementation points to the member states, which has been supported not just by industry, but also by the EU Cybercrime Task Force, among others. I've recently shared that with the Belgian regulator, because I had a different inroad in there, but I don't have any information on [state of play], sorry.

STEVE DELBIANCO: Thanks Marie, appreciate it. And I don't see Sven on the call, so we'll push on. Council comes next. The previous council meeting was the 18th of April, I think it was the same day we had our last BC meeting, and it was pretty active. There were two resolutions, one was deferred, which is kind of funny, because it was a resolution to defer policy status, but the resolution was deferred on whether to defer. That'll be taken up at the next meeting, which is the 16th of May.

We also have council unanimously approving a motion on SubPro's supplemental recommendations. I would then turn to other council activities. Zak and Arinola, how are the BC's transfer policy suggestions taken over there in the transfer policy working group? How did that go?

ZAK MUSKOVITCH: Hi, Steve, this is Zak. So last time I reported to BC, I indicated, I think this was included in the policy calendar previously, Steve, but I was expecting some big pushback as a result of security concerns that were raised, but those seem to have receded and remarkably with full court press from registrars, it looks like some of the BC proposals are going to

go ahead, and this was with support of IPC as well. It's still in flux. I'll probably have more to report from the Kigali meeting, because there's a hiatus now because of the meeting in Paris that most of the working group members are in, but I have an optimistic outlook. So I hope to be able to report that we made some good progress there shortly, Steve.

STEVE DELBIANCO:

Thank you, Zak. Arinola, anything to add? Fantastic. Number two, continuous improvement program. Nenad is not with us. Any updates?

LAWRENCE OLAWALE-ROBERTS:

Sorry, Steve, to interject. This is Lawrence. On the council slate, one of the issues that had to be put on to the next council meeting had to do with a request from the IPC based on – this has to do with the expiration of domains. A valid concern was raised, which I do not know might be of interest also to the BC.

So within the IPC, there were discussions that tilted to the fact that there is a practice where your domain name expires, it doesn't drop to the common pool, but the registrar basically snaps it up and auctions the domain name. And so it does not allow for the domain to be released for other registrants to pick up those domains.

I think there are some discussions ongoing within the IPC that want to put a proposition forward, and I don't know how the BC might want to direct the councilors to deal with this issue at our forthcoming council meeting. This might be of interest to the BC, domains not being able to drop for other registrars to register or for you to move, being snapped

up by the registrars and auctioning them. This is the other issue that was also deferred.

STEVE DELBIANCO:

And Lawrence, they have to circulate that 10 days before the council meeting. So we should not only have it in the agenda, but we fully expect to see their proposal. So over that 10-day period, I don't think we can cover it today if we don't know what they're thinking about. But the drop catch scheme is one that we have talked about before. As soon as IPC gives you – their councilor gives you any indication of what they're drafting, please share it to BC-private. And I promise that we'll try to follow up based on things we've said before. But we're probably going to have to do that via email before the 16th.

LAWRENCE OLAWALE-ROBERTS:

All right. I'll watch out for that. I will share on the private list. The other issue also had to do with the supplementary – the ones we had interest in, which is the string similarity. The decision was to pass this to the council small team plus on SubPro to discuss a proposition that was coming from staff. Staff is saying that where there are similar strings and nobody objects – nobody in the community objects to the submission of those strings, that those strings should be moved on to be delegated.

So if we had, for instance, a dot book and then we had dot books, and nobody in the process of the round being opened voiced out any reservations against that, then both strings could be delegated to different operators. That's a submission from staff, and the small team

plus will be looking at that. I know this goes against the BC's position that string similarities should not be allowed because it could be confusing, but it's also something that we will be watching closely. Thank you.

STEVE DELBIANCO:

Thank you, Lawrence. Staff admitted in the report that it is very confusing. But they said it's only confusing in certain European languages where you add a letter S for plural. I'll concede all that, and yet that constitutes a very large population of registrars and users. So they tried to diminish the problem because that only applied to Latin languages in the Latin script. We still have to insist that that is a confusingly similar and not to be subject to, if not a string similarity review, it ought to be subject to an objection. So let's continue to hammer on that. I had hoped that we'd see something more promising from the board. Thank you for that report. Anything else, Lawrence, on council?

Okay. Nenad has said no updates on the continuous improvement program. Steve Crocker and I serve as reps on the registrant data request system or RDRS standing committee. We had a call on that and raised some concerns, looked at the report that came out on April 30th earlier this week. They started a webinar, which I have not watched yet. Steve or anyone else on this call, were you able to watch the webinar on the 30th of April?

STEVE CROCKER:

I was actually.

STEVE DELBIANCO: Can you report on that?

STEVE CROCKER: Sure. In my mind, I classify a lot of what I see as kind of sales pitch or marketing pitches to push forward the RDRS. Nothing wrong with that in principle. It just isn't everything, which is why I got heavily involved in trying to make sure we heard from the requester side of things. It was an enthusiastic and sort of positive sounding presentation aimed at, as I say, getting more participation. I also paid attention to the content. There was a lot of content of the form of, "Well, you have to be careful filling out the form and make sure you get it right. You have to be careful filling out the form and be sure to get it right." That is repetitive and not very helpful from a substantive point of view, I'm afraid.

I don't know what there is to do about that. I think this is what we're stuck with for a good period of time. There will be more of this. As I say, basically, nothing wrong with trying to say, "Yes, we would like more registrars to be participating. Yes, you should try to use this form. We're going to get some data out of that." At the same time, I think it's important for all of us to keep in mind that the larger picture is that a lot of the big questions are just simply not being addressed at all. There's a lot of time and energy being expended on the small stuff, I would say. That's my report.

STEVE DELBIANCO: Steve, we'll be doing a similar session that we did in San Juan. It will be conducted in Kigali.

STEVE CROCKER: I'm very pleased to hear that.

STEVE DELBIANCO: We got surprisingly little pushback from registrars and registries on the last standing committee call, possibly because we invited them to be at the table to react rather than in the back of the audience and considering themselves being left out. I do hope some registrars will take us up on that.

STEVE CROCKER: Yes, it's a little bit tricky doing that because that also sets them up to try to respond and debate or rebut what's being said. More generally, the comments from the requesters, I would say, relatively easily fall into two classes. Those that are comments on what are the defects in the system itself, and the natural recipients of that would be ICANN Org. The other class is directed at the kind of responses that they get from the registrars and hence the recipients for those comments are the registrars. For example, how come some registrars always say no and another registrar always says yes to what are otherwise the same kind of requests?

I did actually offer up one comment, one question that was relayed and responded to without attribution to me, which was fine, which was whether or not the registrars are talking to each other and sharing their

results and trying to improve the uniformity and consistency and even the utility of the responses. Sarah Wyld said, "Oh, yes, we are." Where that goes, we'll see.

STEVE DELBIANCO: They might also remind us that they don't have to be consistent. They're quick to remind us they don't have to disclose privacy, they don't have to be consistent, and yet pointing out inconsistencies will help everyone understand why the requester community is so frustrated and also suggest why we need policy to make the experience more uniform and consistent. I think they hate the idea of new policy. It would potentially require something like a response.

STEVE CROCKER: Part of a much longer and more detailed conversation. Yes.

STEVE DELBIANCO: Appreciate that. What we see in the chat is that Vivek and Marie have indicated that discussion at the EUIPO, IP association, that someone expressed a lot of work to do it for getting very few disclosure results. Some doubt about whether a requester would continue to use it. Marie and Vivek, if you have evidence of that, that's the kind of story we need to be able to tell. For our next meeting, it would be outstanding for us to know what a particular requester who has reached the end of the rope and said I'm not doing this anymore. We would need to understand that. If they don't want to identify themselves, that's fine.

We just need to be able to tell the story about why. Please try again.
Thank you, Marie. I appreciate that.

Moving ahead to Marie to channel 3 on CSG. Floor is yours.

MARIE PATTULLO: Very little to report. I'll be very quick. As you know, we're still working with the team 14 group trying to get to a better way to appoint, nominate our board member. We have a meeting with the NCSG next Tuesday to discuss the RFR that we just talked about. So Mason and I will be there and we'll report back on that. And there's nothing else that I need to tell you about unless you have questions for me. So back to the agenda.

STEVE DELBIANCO: Okay, thank you, Marie. Any questions for Marie on CSG? Okay, now, same back to you, Mason, on time.

MASON COLE: Good work, Steve. Thank you very much. All right. We are four minutes before the hour. And I will call for any other business unless there—I'm sorry, unless there are follow-up questions for Steve. Okay. All right. Any other business for the BC today, please?

STEVE DELBIANCO: Mason, I was going to ask if there was anybody that wanted to report on what they observed at the NetMundial+10 occurring on Monday and

Tuesday of this week. [inaudible] and I watched most of it. We saw Mark Datysegld and Jim [inaudible] at the microphone frequently representing the concerns of business community. I was applauding most of the comments that they made. I have not reviewed the final document. I don't know whether it's available. Does anyone else have any reports on it? Okay, thank you.

MASON COLE:

Okay, thanks, Steve. All right. Other business, please? All right. Brenda, our next meeting is the 16th of May. Yep. You have it on the screen right there at our normal time. All right. With three minutes to spare, we are adjourned until 16th of May. Thanks, everybody. Have a good one.

[END OF TRANSCRIPTION]