BRENDA BREWER: Good morning, good afternoon, and good evening. This is Brenda speaking. Welcome to the Business Constituency Membership Call on 3 August, 2023 at 1500 UTC. Today's call is recorded. Please state your name before speaking and have your phones and microphones on mute when not speaking. Attendance is taken from Zoom participation. And I'll turn this meeting over to BC Chair, Mason Cole. Thank you.

MASON COLE: Thank you, Brenda. Good morning, good afternoon, and good evening, everybody. Mason Cole here, Chair of the BC. Welcome to the BC Call on 3 August, 2023. Good to have you all with us. I was kind of afraid that with so many people on vacation, we wouldn't have a very populated meeting today, but we do, which is good. Thank you very much. We have our usual agenda on the screen before we begin. Are there any updates or additions to the agenda, please?

All right, don't see any hands. Very good. We are going to dive right in because Steve's policy calendar is, as usual, pretty busy. And then Lawrence has some things to cover as well. So Steve, take it over, please. The floor is yours.

STEVE DELBIANCO: Thanks, Mason. Displaying now the policy calendar that was circulated yesterday. And let me put up the chat to make sure I could see if you're asking any questions. And we have one comment filed since the last time we had a call. And that was the comment on the new

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amendments to the RAA, Registrar Accreditation Agreement, and the Registry Base Agreement, RyA, along with, let's say, guidance from ICANN Compliance about how to comply. These were all amendments that were negotiated between ICANN org and the registries and registrars to address the DNS abuse. Mason and Mark were leaders in the effort to try to convince the contracted parties to go along with this. And a lot of that meant negotiating on good faith, trying to constrain the amendments of the address DNS abuse and there were concessions to be made on the notion of how would you define DNS abuse?

And once they issued their amendments, there are certainly things we could improve upon, but we had to walk a fine line here between sticking to our limited scope promises versus trying to jam some amendments in right now. And we debated an approach, went back and forth, and I want to really applaud the efforts of Margie Milam to put forth straw man, a first draft, not a straw man at all. And then some reactions from Mason, Mark and Crystal that allowed us to shape that in a way that stuck with our original commitments, but still teed up the ball for things that should be amended and tee up the ball for future changes. So a big thank you to the four of you for working together. I then cleaned it up and editing and then I managed to submit them as both a 3-page comment plus the 17-page markup of ICANN's advisory on compliance where we had little call out boxes and additions.

So all that went in and we weren't the only ones to comment on it. You won't be surprised to know that the IPC, the intellectual property constituency submitted much more of a red line to the amended agreements where there was more red than black, but we would not disagree with anything the IPC put in, but it wasn't really the

appropriate place for the BC, given that we had taken the lead on negotiating a rather narrow and focused approach in the way of Mark Datysgeld is the chair of the DNS abuse small team on council and Mason's role dealing with CPH.

So I think it came out pretty well. The points that Margie wanted to originally make showed up in the IPC comments. Our comments make us look like we're really looking out for a practical solution. I will say this, one of the amendments we asked for immediately was that the evidence we present when we have DNS abuse should not be necessarily only evidence of harm that is occurring, but evidence of harm that has recently occurred, it was not mitigated.

We cannot be held to the standard that when we submit the complaint, that our evidence is happening right now, such that a registrar would go check the same URL and if it's not there, they'll say, "Your evidence doesn't match reality." We have to be able to amend that. So I do hope Mason, Mark. Lawrence, while you're on council, let's push very hard to get the contract parties to agree that it can't just be evidence of actually occurring harm, but evidence of actual harm that either is or has recently occurred. I'll take a queue if Mason, Crystal, Mark, Margie, any of you want to add anything to this? Go ahead, Margie.

MARGIE MILAM: Thank you, Steve, and thank you for the summary. I think that that's right. If that's a change that is possible, it would be a great improvement from the current state without having some gigantic

change knowing the delicacy of the negotiations. So I'm hoping that could be an outcome.

STEVE DELBIANCO: Do we know who on staff is compiling the report?

MARGIE MILAM: No, I don't.

STEVE DELBIANCO: All right. Because what would be great is, first of all, to have the report reflect the reasonableness of that amendment. And then separately, we'll have to lean on our friends in the CPH. If you're going to get, you've got to give us one thing, that would be the first thing to give. And then there's three other things we noted on page one and two of our conference. Thanks Margie. Anyone else?

Great, I will open up the current public comment. We have one which is recommendations from the GNSO guidance process. That's called a GGP. It's a formal process from the council. And it's a particular topic on how ICANN org can support applicants for new gTLDs in the next round. And the word support means giving them legal, technical assistance, maybe even financial assistance so that they can put in applications. I have to say, Lawrence has been a fearless leader on this GGP in the face of a chair who thinks that the only people that can get support would be applicants from the business world.

So I think Lawrence has made superb arguments on the need for small business or trade associations or any other group representing businesses, particularly small businesses, deserves the opportunity to get support if they can demonstrate a need and if they're in the public interest with respect to the TLD they're applying for. I know that's a tough one to do, I think we need to submit a comment. Now Lawrence, you're on that team. Segun, for me, you're the observer and we would need some guidance from you if you can't hold the pen. We need some guidance from you. I think the right way for our comments to steer the chair is I'm afraid that as a GGP, we're not appealing to counsel with our comments. I think our comments are to the chair of you of the team to see if he'll soften his approach. Lawrence and Segun, I'd like to hear from you.

LAWRENCE OLAWALE-ROBERTS: Thanks, Steve. So you're right. I'll be very happy to guide with some pointers. But this will be a very good opportunity for the BC to lend its voice to saying that not just the outreach, but even the final outcomes should not in any way differentiate any business that wants to apply for applicant support. In the current process that led to the report, I had to speak with Nigel and the GAC representative of GGC, and I'm happy to see that their points also got captured in the report. So we can also leverage on the GAC outcome that basically is also tending towards ensuring that no particular sector is differentiated in any way.

But I will [inaudible - 00:08:38] public support for the BC team that might volunteer to put a report together. It's very expedient that the

BC speaks because the impression has been that we are definitely not in support of the final report which basically is tending to our claim that businesses don't need to be supported in the next round through the applicant support program.

STEVE DELBIANCO: Thanks, Lawrence. Do we have a volunteer? It will help take the pen on this process. And I don't see Andrew Mack on the call. I might lean on Andrew a bit to see whether he could help. Anyone? Is not due until September the 11th. A lot of time. All right, I'll be pursuing that again. The second is not an ICANN public comment, but rather, well, actually, this one is an ICANN public comment. This one is saying that the ccNSO is putting out a review mechanism on delegation transfer revocation of ccLTDs. And there are several BC members who maintain domains in ccTLDs. And we did comment a little over a year ago on the policy they proposed on retiring the ccTLD, like .su for Soviet Union, for example. I hope that one stays retired.

The new procedure comments on things like delegation transfer and revocation. And I feel like BC members with Domains and ccTLDs, this is going to be important to you. And we do need a volunteer to draft the comment. They're not due until the 28th of September, a lot of time, but this is a perfect opportunity for the BC to weigh in on the perspective of you're supporting customers on a domain name and a ccTLD. You want to have something to say about what happens when somebody else tries to transfer that ccTLD to a new operator. Can I get any volunteers who are interested?

CHING CHIAO: Steve, this is Ching Chau. I'll be willing to take the first step if everyone is okay with it. Thanks.

STEVE DELBIANCO: Thank you very much. Really appreciate it. And Ching is very knowledgeable on ccTLDs, which gleaned in Taiwan, and I think you'll be perfect for this. Thanks, Ching. Anyone else willing to join Ching on this? Looking for names. Margie, your hand's up or is that a volunteer?

MARGIE MILAM: It's a volunteer.

STEVE DELBIANCO: Awesome. Just for grins, how many does Meta have on ccTLD's, dozens?

MARGIE MILAM: I have no idea, but I'm sure it's a lot.

STEVE DELBIANCO: Beautiful. Thanks, Margie. All right, next item up. This is not an ICANN, but the comment process, but the UK government just published a request for comments on their own proposal for powers that they have, what powers they propose related to what they call UK related domain name registries. And of course, this would be any registry who supports

a domain name registered by a UK citizen or a domain that serves UK residents. It's pretty broad jurisdictional reach. And they also, I want to note, have a more expansive definition of DNS abuse than that which is used in the DNS abuse amendments here at ICANN. For instance, they include CSAM and cybersquatting.

One of the first elements in the comment that the BC submitted on the domain name amendments, the DNS amendments, included CSAM. So this is something we're consistent with and we could rehash perhaps the comment we submitted for that. Do we have volunteers in the BC that would consider Developing a BC comment. I realize it's not an ICANN process, but it relates squarely to the BC's concerns. Who's interested in commenting on the UK before 31st of August, that's coming up rather quick? Margie, your hand's up.

MARGIE MILAM: Sorry, but this is really important. And it actually dovetails quite nicely with the comments that we've made in the past. So it'd be, I think, fairly easy to pull the other comments based on what's already been submitted by the BC.

STEVE DELBIANCO: And I could take the first stab at that, given it just finished editing what you guys did on the last one. Can we get any other BC members that would volunteer, particularly those of you based in the UK? That would be our standard. All right, thanks Margie, appreciate that very much.

Under NIS2, we typically keep a topic on NIS2 so we get feedback from Andrew and Marie. I haven't seen Andrew for a while on these calls, and do we have Marie? I think, Marie, you're on the line. Do you have anything to add on NIS2 before we turn to the question of the council outreach? I know you're on vacation today.

No. All right, so let's turn to what I have here in yellow. Just the other day, Monday, Mark and Marie and Mason together drafted a few paragraphs they wanted to send to council. And it's a pushback on a suggestion from Thomas Rickard for council to start to do outreach to EU member states instead of working through the GAC. And frankly, instead of letting ICANN org do the outreach, stakeholder organization inside of ICANN, probably not well-suited to do a duplicative or perhaps conflicting outreach to EU governments.

And just by the way, Thomas Rickards point of view was that the European Union member states, they need to know all that ICANN registrars are already doing to satisfy the NIS2 requirements. That's not exactly the perspective I think we would pursue. And I hope it's not the perspective that ICANN would pursue. I said it yesterday, I'm not going to read the contents of that communication, but I wanted to turn to Mark Datysgeld on this and ask Mark, what has council discussed this week and what are the next steps? Over to you, Mark.

MARK DATYSGELD: Thank you, Steve. So in summary, Thomas has been pointing out that in the latest language related to NIS2, there is what he has called a shout out to the ICANN community, even though it doesn't name us directly, it

does mention multi-stakeholder bodies or something along those lines. So within the spirit of that, he's been trying to steer the GNSO Council to make a direct comment that addresses that point. So it wasn't clear under what terms he wanted to carry that out. And a small team or not even a small team, more like a group ad hoc group was formed to attempt to follow up on that. This took place yesterday. And the outcomes of that particular meeting have been that there is general agreements that the GNSO Council is not the correct body to carry out that kind of outreach, that governmental outreach.

So it falls in line with our comment. We seem to be within the general mainstream opinion. And what follows from that is that with the support of Elena Plexida, which as you remember, carries a lot of the ICANN org work on this matter. This communication is going to be steered towards the ICANN board and CEO, which seems like a more appropriate venue for that. Now, they got started during the call discussing the substance, but they ran out of time to actually enter that. And this is where we will be able to dig a little deeper and see what actually is the angle that Thomas is pursuing. Theoretically, the idea is just to signal what we are doing from the IT community. The idea is to say, "Hey, these are the ongoing projects." But it's hard to really guess at what's the, the bigger game here. So let's keep an eye out and see where that goes.

But the immediate threat, of this being a council to European Union communication has been eliminated. So, looking towards more instructions from the team members on that. And we have Margie, who's an expert on that. So we'll definitely be keeping up. And Steve has on the screen right now, a comparison between the languages,

which is something that has been what was an annex over comments. I wonder if anyone who with deeper knowledge on this to would like to comment on that because this is definitely not my expertise.

STEVE DELBIANCO: Mason, Margie, this was something you circulated before ICANN77. It's a dispassionate comparison of the policies that ICANN under EPDP and IRT, and then a pretty straightforward recitation of what's in NIS2. This is what I mean by a substantive contribution because Mark has addressed the process problem of who and how is talking to the EU. But the real question is, what are we saying to the EU? This would be a superb document to get onto the table, even in a council discussion, Mark and Lawrence, getting counsel to understand, let's just lay out the differences between NIS2 and the current process and see whether that leads to conversations about things that need to be changed. Mason? Anyone want to add to that?

MASON COLE: Margie's hand is up.

MARGIE MILAM: Sure, Steve, this is Margie. And with this document originated from a conversation we had in Cancun at the commercial stakeholder meeting. And what I tried to do in pulling this together was look at the NIS2 language, pull the EPDP phase one language and the IRT draft policy to show the gaps with the idea that this could be a starting point for identifying where the policies need to be updated, who has policy needs

to be updated. And with the hopes that the council or the board would start the initiative to do that work within the ICANN community. And to me, that seems to be an appropriate role for the council is to, to see how the policy. needs to be updated in light of the NIS2. And as you go through each issue, you'll see where there's gaps and where policy work could be appropriate. So that's the thinking behind this document.

STEVE DELBIANCO: Thank you, Margie. Mason, anyone else have anything to add here? This is not a rhetorical contribution to substance. It's really a no-nonsense comparison. It deserves to be seen by a lot of others. And Mark, do your best to see whether it could be acknowledged at least by people like McGrady and others in council, because I know you attached it to your communication. I'll return to the policy calendar now and scrolling down to council. Marie cannot hear or communicate too reliably right now. But Mark, I'd like to turn it over to you. You did a council meeting just a little over a week ago on July 20th. I put in here the three resolutions that you agreed to, and it could be an opportunity to discuss what you expect at the 24th of August, and then we can walk through the other council activities. Mark.

MARK DATYSGELD: Thank you. I think one of the main questions right now is that we are trying to steer the council towards some resolutions before the next meeting. We did wrap up some discussions, but there are still things that are open. In particular, the SubPro discussion has been sort of in a cycle. We cannot seem to get that really in place because there is a bit

of a let's say, lack of alignment between what the board is thinking and what the council is thinking, both in terms of timing and in terms of the types of contributions that are being made. And right now, it seems like this will be one of the things that we will be discussing more actively in the sense of attempting to actually come to a conclusion as to what are the next steps on that? Because it's quite unclear what is expected from us right now, because we did deliver on the questions that they asked of us.

We deliver in a substantive manner, answers to the pending questions, and that was not seen as enough, apparently. There is not clarity on how we're going to proceed on that. So SubPro should be something that's top of mind moving forward so that we can actually start wrapping that up or at least putting that in a general positive direction. Something else that's coming up is the Closed Generics comment, public comments, and everything related to Closed Generics.

There seems to be a general impression that this didn't land as smoothly with the community as it would have been imagined by the group who worked on that. Those of you who have read that particular framework for Closed Generics will have noted that it's very meandering and difficult and doesn't really establish a path forward. There is currently some discussion on what would be the next steps on that, including the need to change that, to actually move that towards something more that makes more sense, let's put it that way. And I expect that to be something that we will be discussing with a certain priority.

Finally, from the things that I'm following, the public comments on DNS abuse amendments has wrapped up. And that seems to have gone, I would say favorably. There's broadly, let's say three categories of comments. One asking for direct intermediation of intellectual property concerns, which seems fairly clear the CPH is not willing to do right now. There are people who fall within the general category of what we did, which is point out some weaknesses, particularly in relation to language that suggests that only ongoing abuse would be addressed and not abuse that has happened historically. And that seems to be something that they wouldn't address, which is positive.

I'm hoping that they will come back with language that suggest that because several parties commented on that and the NCSG made a very negative comment, some very unproductive comment, basically saying that because this does not follow their personal expectations of IPM processes, this is not a good development, essentially saying that. It will be as abuse at the levels that it is a sign. So implying that, having the high levels of DNS abuse that we actually have is somehow a good thing. It's very difficult to understand. So I expect to have more attrition with them moving forward on this. Unfortunately, let's see if this does not become an issue, it seems to be something that's under control. So in general terms, we can expect that to go smoothly. Those are the things that I'm the most involved with. And if anybody would like to fill in on other subjects, please feel free.

STEVE DELBIANCO: Thanks, Mark. First up, I'll turn to Zak and Arinola covering the transfer policy working group of council. Zak and Arinola, I put in there the update you gave me yesterday. Anything you want to add to that?

ZAK MUSCOVITCH: No, thank you, Steve. I checked with Arinola as well. Nothing to update right now. This is an example of when the working group is covering topics that just aren't of direct interest to the BC. And so nothing to report in that regard. Thank you.

STEVE DELBIANCO: Thank you for following in and for giving us an update reliably like that. We already covered number two earlier, those open public comment on GNSO guidance. We've covered DNS abuse. The RDRS is something that I cover for us on that work team. I would say that it continues to degrade constantly. It degrades the value proposition for those of us that are going to make requests.   But I think that the requester community realizes that we have to make at least a good faith effort to show that we have plenty of evidence to show, plenty of requests to make for disclosure. And when nothing comes back from the majority of non-participating registrars or even participating registrars, we need to be able to document what we submitted and when and what the response was.

Unfortunately, Sébastien Ducos, the chair of this group, is backing staff by saying that if we submitted any requests from a registrar not participating, they will dump it on the floor, dump it. They will not even track the domain name about which we requested or the evidence that

we used. This is an attempt by them to show that the only requests that are going to be logged are the requests that are to participating registrars who are more likely to give some sort of response. So I continue to press that the RDRS value to us is mostly at making sure that we don't get blamed for making it fail. Any questions? I will turn next to Tim Smith on CSG liaison. Tim.

TIM SMITH: Hi, thanks, Steve. So not too much to report. The main thing is we continue to try to find a suitable candidate for board seat 14, suitable to CSG and to NCSG. And we've just undertaken our next round of interviews of candidates. And so we had an interview on Tuesday with Ihab Osman that went pretty well. And we have another interview tomorrow with Khaled Koubaa. I believe Koubaa, I think is the pronunciation. My apologies if I butchered it. And so once we come out of that, CSG ExCom will be determining which of those candidates we would like to bring forward or how we want to proceed and present that to NCSG. So I think we're making good progress. We've got a couple of good candidates and hopefully we'll find some receptiveness within NCSG. And just continuing on NCSG, we are trying to organize or Mason Cole is trying to organize a meeting on day zero of ICANN78 with NCSG and there's been good outreach to NCSG on that.

And so we should know in the next couple of days whether that meeting is confirmed. And we had good success at ICANN77 having Paul McGrady as a facilitator for our discussions. And so Paul McGrady is being asked again to facilitate our discussions between CSG and NCSG at that day zero event. So more to come on that in the coming days. And

the only other thing to report at this point is an IFR representative. You will recall that, I think it's actually within the bylaws that CSG is to provide a representative for this IANA naming function review. And so all three parties in CSG, IPC, ISPCP, and BC have been trying to find a candidate, somebody who will carry that. The deadline originally was June 30th for that, and we weren't able to find somebody by that deadline, so July 30th became the new deadline.

And just in the dying moments, big thanks to Rajiv Prasad for coming forward and being willing to represent us on that. And we're just awaiting confirmation from other parties within CSG that Rajiv is the is acceptable to everybody. So thanks, Rajiv, for that. And also in the dying moments, also Imran came forward. And so Imran, thank you for offering to help us in that in that as well. We did put Rajiv's name forward because we were in the dying moments. So thanks to both of you for offering to assist. And that's about it for me. I'll take any questions.

STEVE DELBIANCO: Mason's got his hand up.

TIM SMITH: Mason.

MASON COLE: Thanks, Tim. Thanks, Steve. I just wanted to say thank you, not only to Rajiv for volunteering, but also to Imran and to Tola, who also offer their services. And in the end, for various reasons, Rajiv is moving forward,

but I just wanted to say thank you to the three of those BC members because this is an important role. It is bylaws mandated and it was important for the CSG to put somebody forward. So just in my capacity as chair, I wanted to say thank you to the three volunteers. It was gratifying to see the BC step up to the role and I appreciate it very much.

STEVE DELBIANCO: Mason, thank you. We're done with policy counter. Back to you, Mason.

MASON COLE: Thank you, Steve. All right, members, any follow-up or questions for Steve, please?

All right. Let's move on to the next agenda item, which is Lawrence's update. Lawrence, please take the floor. Thank you.

LAWRENCE OLAWALE-ROBERTS: Thank you very much, chair and good day to all the members. Sorry, I'm not in the Zoom room, so I'm not able to tell who's there. But just to remind us that the next public voting, the ICANN [inaudible - 00:33:35] registration is ongoing. We want to encourage all BC members, either you're going to be there physically or you're trying to participate remotely, it's important that you register for these events. Please let's get that sorted. And once that is done, we will also be tracking members who will be physically at Hamburg so that we are able

to make adequate arrangements for participation at the BC and CSG meetings.

An open ICANN announcement has been the NomCom appointment to the board and the GNSO. The GNSO had worked on this additionally. [Inaudible - 00:34:29] and this is welcomed for continuity. There is also a new board appointee in the person of Catherine. She definitely is also aligned with the BC community in Kenya. And she was returned alongside Sarah Deutsch, who has been a longtime friend of the BC. This also has generated, I understand, some discussions within the NCSG because Avri was not able to be returned to the board. But hopefully, the BC will be able to draw on this for our continuing advantage.

The call for articles for the BC newsletter for ICANN78 is extended until mid-August. Precisely the call is extended until the 18th of August, which will be the time we will have our next BC meeting. Hopefully, we will have articles from BC members who would want those articles showcased in [inaudible - 00:35:50]. We are trying and working hard to see that the next additional [inaudible - 00:35:56] comes with hard copies.

We want to encourage members to please at this point put more articles, put more contributions that they want to see in the Newsletter. And please help us show that it reaches them, all the BC secretaries through Brenda by on or before the 18th of August. And I'm sure that we will also have some of our members again who are here to help us translate the newsletter to other languages. Thanks to [inaudible - 00:36:33] and to Mark for the work that they did on the last newsletter.

For Imran, I don't know if Imran is on the call. I don't know if he's on call anyway. I will respond to that. I just wanted to say that for FY24, we have three CROP slots that can be used to build [inaudible - 00:36:59] happens within a region. So, [inaudible - 00:37:08] in Germany. We have two other meetings in FY24. One happens to be in Rwanda. I can't remember where the third one is right now. But if those meetings are happening again within your geographic space, then yes, you might qualify to use CROP where we want to help with some outreach events around the BC during the ICANN meetings. So please reach out to me and I will take time out to respond to those emails outstanding and currently within the space with limited connectivity.

The draft timeline for the ExCom elections that will be completed in October will be shared with members before the end of the month where it has gone through ExCom [inaudible - 00:38:13]. But with August first getting out of the way, September and October is what we have left. Even the timeline for next year, before conducting the [inaudible - 00:38:26] election, offices will have their terms restarted by the 1st of January, 2024. And so we're just giving ample time for this election.

Basically, the officers vice chair, finance and operations is up for change. I'll be moving into another role and we will have elections for all the BC officer roles, BC group chair, vice chair, policy vice chair commands and operations and CSG. The BC currently chairs the CSG and, hopefully, they will be in favor of all our relevant officers so that we are able to have some consistence and continuity in the process. And definitely we have our officers putting in very, very ample time and [inaudible - 00:39:29]. But at any dates, members who will be voting during this

process will need to update their dues fully and also aside from being able to vote, the members need to be financially up to date to also be able to nominate an officer.

So it's been encouraging over the last three weeks in terms of members who [inaudible - 00:40:02] their dues. Thank you for everyone who has the new post-payment happen. The BC appreciates it. And for those who still have open invoices, we want to encourage that you do so quickly so that we are able to have your details processed and notify those who will be eligible to nominate and to be voted in the next BC election.

At this point, that's all the information I'll be sharing. If there are any questions, I'll be available to take them. Otherwise, I will give the floor back to Mason. Thank you.

MASON COLE: Thank you, Lawrence. Any follow-up or questions for Lawrence, please? Lawrence, thank you for the report and thank you for joining us during your time on holiday. Sorry to interrupt your vacation. All right, is there any other business for the BC today?

All right, I don't see any hands. Therefore, I will return a little more than 15 minutes to your day. Our next meeting is 17 August at the usual time, 15 UTC. I hope you all can make it and we'll have some important issues to discuss as always because ICANN work is not going to slow down. We have lots in front of us before ICANN78 in October. So lots of things to cover. All right. Very good. If there's no other business,

then I'll say thank you to Brenda for her support as always. And we'll see you on the 17th. BC is adjourned. Thanks everybody.

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