

**ICANN Transcription - Marrakech
CBUC Meeting
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Also found on page: <http://gnso.icann.org/en/group-activities/calendar>

Chris Wilson: While we're taking the time to be here. This is the Business Constituency Open Meeting. My name is Chris Wilson, Chair of the Business Constituency. We've got a full agenda. Scheduled to be here for a few hours but depending on how we proceed, maybe we can get out a little early.

Perhaps just as, you know, protocol we can go around the table and everyone introduce themselves and even their affiliation. Since this is just the BC, we just tell them which company you're with or association. And then we can - now we can start it up. So Steve, why don't we start on my left to you?

Steve DelBianco: Thanks. Steve DelBianco, Vice Chair for Policy Coordination. And I run a trade association in Washington, D.C. called NetChoice.

Heba Hussein: Hi everyone. I'm Heba Hussein. I'm based at - in D.C. at Google on our Policy Team.

Aparna Sridhar: Hi. Aparna Sridhar, also at Google.

Andrew Harris: Andrew Harris, Amazon.

Brian Huseman: Hi. Brian Huseman with Amazon.

Claudia Martinuzzi: Claudia Matrinnuzzi with Louis Vuitton.

Man: I'm (unintelligible). I'm from Internet Service Provider Tunisia.

Nivaldo Cleto: Nivaldo Cleto from Brazil. I .services and a member of CGI Brazil.

Claudia Selli: Claudia Selli, AT&T.

Mahmoud Lattouf: Mahmoud Lattouf from Egypt and Jordan.

Cheryl Miller: Cheryl Miller, CSG representative and I'm with Verizon.

Andrew Mack: Andrew Mack, AMGlobal and I'm your Outreach Chair.

Cecilia Smith: Cecilia Smith with Fox.

Jimson Olufuye: Jimson Olufuye, Vice Chair Finance and Operations. I represent AfICTA, the Africa Internet alliance about but 25 countries in Africa, member of the alliance. And my day job is a sale contemporary. We manage data centers and do IT consulting. Thank you.

Chris Wilson: And this is Chris again. I neglected that I too work for 21st Century Fox. That is my quote unquote day job. Although I think maybe ICANN is more my day job now, and my sideline job is working for a company. Great. Thank you all very much.

Yes. We've got - right. We're looking at the agenda right now although it's kind of small. We did a little bit of time allotted for - bring up any other topics of interest that aren't perhaps listed in the agenda. But some of this is

obviously procedural administrative topics but also some substantive policy topics as well.

So if, you know, we have the opportunity if there are any other topics of interest folks want to raise, now would be a good time to do so. So I'm looking around. I don't see any - I should also mention there are some fine folks from the BC on - participating remotely.

I see Gabi, Jay Chapman, John Berard on as well. So if there are anything any of you all would like to raise, please either type it or feel free to raise your hand and speak up.

So if not -- I don't see anything -- then, you know, we can maybe hit the pause button on GNSO review until hopefully Phil and/or Susan can show up and maybe Steve. If this is a - if this works for you, we can turn directly to the policy calendar and get in a little bit of discussion what's going on there.

Steve DelBianco: Thanks Chris. Chantelle, would you - thank you. You're ahead of me. She's loading the policy calendar. And I've asked in the Adobe if any of you are not on the BC list and should be, I can email you the policy calendar as well. I sent it out last night.

Let's skip directly to Channel 2 on comments that are due to file. Current calendar would say that we have only four of them that we need to focus on right now.

The first two together are a combined comment that the BC is trying to rationalize our approach on next generation registration directory services along with registry data access protocol or RDAP and then thick Whois.

We drafted these comments right after the first of the year. Barbara Wanner and Cheryl Miller did the initial drafting. And then we had plenty of help, edits that were done by Andy and Aparna and then Susan Kawaguchi. We

circulated that in the middle of February thinking that comments were due February 15 but there was an extension. They're now due March the 18th, which is just next week.

So this is a golden opportunity for BC members who are concerned about the current discussions of thick Whois and implementation. We just had a very substantive discussion of that with Cyrus and other ICANN staff and Board in the CSG interaction with the Board. So if any of you missed that, that's - that was an opportunity to explore why the delay of implementation of a consensus policy that was agreed to two years ago.

And Cyrus gave us an answer. Now let's see whether the comment we have appropriately reflects that. So the draft comment was the first attachment to the policy calendar that I circulated. So any of you who have your computers up can pop that up. And I'll take a brief queue on how we want to modify or strengthen the comment we're making on RDAP and thick Whois. I see Denise. Anyone else? Go ahead Denise.

Denise Michel: Yes. Thanks. I think it's a really good foundational draft. I think just given the circumstances of how this is evolving and also the interest of the IP and the ISP on this interest it would be good to add - and I'm happy to provide some edits for people's consideration. I think it would be good to add a little more context and entry on the thick Whois and the need for implementation.

Steve DelBianco: Thank you Denise. People will be traveling through the end of this week. So it is kind of a challenge for us to knit together significant changes. So I do want to pay attention to the bottom of Page 1, top of Page 2. We did our best to recap what the BC has said before about thick Whois and our strong support on it.

And there's several footnotes there that point to previous comments going back to 2013. And all that's laid out in terms of history and coverage. I think the most important part is what do we want to say about going forward,

because we acknowledge that the migration to thick Whois is a temporary step towards the eventual completion of work on the RDAP.

And we're eager to see it implemented for com and net. But we have heard from staff and we heard today that .com and net won't be addressed until the next phase of the implementation. They're not even part of the current implementation, so.

Would we want to say something stronger to accelerate, change your plan, make com and net part of the next phase or not? Let's think about what we want to do normatively, no descriptively and going back. But what do we want our position to be?

And Denise, I'll invite a dialog. What - how do we want to strengthen what we said as opposed to just recapping what we said before?

Susan Kawaguchi: Susan Kawaguchi for the record. What I'm just not understanding is why they are delaying the implementation of the thick Whois based on RDAP, which wasn't even created until after the - this was, you know, the Board had signed off on the implementation of thick Whois.

And it would create - it does create a quagmire for the registrars. We should just move forward with the thick - the implementation of thick Whois. And, you know, I - and maybe I have a slanted view because of the company I work for but 100 million records is not that many records. So I think VeriSign can do the job and could do it correctly. They just need to get moving and the Board needs to tell them or ICANN needs to tell them to do that.

Woman: (Unintelligible).

Steve DelBianco: Yes. In the middle of Page 2. We acknowledge but that staff is saying is that implementing RDAP is Phase 1 of the thick Whois. So for some reason staff decided to make that Phase 1. And Phase 2 becomes the thick part.

So this is the last paragraph of the thick section of the comment. So if we want to recommend that the priority of Phase 1, 2 be reversed for instance or recommend that they be combined or recommend that they be left in this order but accelerated. We should try to be as explicit as we can be.

I mean they don't listen to us very much anyway. But let's at least be explicit. And I was explaining to Denise yesterday that when - the BC typically will start with a policy position and I always catalog it with footnotes on the foundation.

And then every time we revisit those and submit them as part of a new comment, that's a chance for us to refine and update in the face of new facts on the table or in the face of what we see staff doing to make a new position.

So we usually build our positions and policies incrementally. That's the beauty of having a continuity in the BC. So incrementally looking at the way they want to phase the work, we can be as pointed as we can. It only requires two sentences.

We believe that the phasing is reversed. It's in the wrong order. Or we believe you should do them together. And let's be clear about that. Did you have something else to...

Denise Michel: Yes. I just - so the GNSO in developing the policy on Whois did not develop the thick Whois policy with an exception for when the IETF got done with RDAP. They were working on RDAP when the GNSO developed the policy on thick Whois.

When the Board adopted GNSO policy to implement thick Whois in these remaining registries, they did not given them an out for RDAP or a future RDS effort.

So the policy does not say implement thick Whois and these remaining registries unless the IETF moves on RDAP or unless the GNSO creates a PDP in RDS.

So I'm also concerned quite frankly about the precedent that's set of implementing consensus policy developed by the GNSO unless major registries disagree with it.

There's a concerning pattern of activity by staff when it comes to their responsibility for implementing consensus policy approved by the Board. So there's - I think that could overlay as well.

Steve DelBianco: And I do believe that thick Whois came before the RDAP. Is that right.

Denise Michel: RDAP has been in the IETF pipeline for many, many, many years.

Steve DelBianco: No. But when did GNSO adopt it as consensus and make it part of the contract?

Denise Michel: Thick Whois?

Steve DelBianco: RDAP. Bruce told us today that both thick Whois and RDAP are required to be implemented under the contract for com and net today. And so there's no need to worry about contract changes.

Denise Michel: I don't think - well, someone else, you know, may know but I don't think the GNSO had a policy reference to RDAP. I think RDAP - because the IETF was working on RDAP when they negotiated the 2013 RAA, they put a placeholder in there for the implementation of RDAP should the IETF complete its work. I really don't think the GNSO had a role in RDAP.

Steve DelBianco: Bruce made the point that they're both in the contract. That's good. But you're making another point that thick Whois was a consensus policy of our

policymaking body. Port 43 was added to the contract but it wasn't because we said it would be in there.

So how ironic to have the contract element on RDAP be put in front of the policy that we would. So I think it's about reversing the order. If I get that right, I look for any objections to potentially changing - all right. Because the last part of our comment is about wanting things to be synchronized and we can make a very common sense argument that in the synchronization, please reverse the order of Phase 1 and Phase 2. Any objections?

Okay. So I will look for the drafters and the three of you at the table here help us to come up with a paragraph or two and circulate it before people get on the planes to leave this week. We can work on it in our spare time here in Marrakech. Thank you. Any other comments on that first one? Great.

I know that - I note that we have BC members who were in the PDP for the next generation registration directory services, the potential replacement for Whois. And firstly, Susan, you've been a leader on this since the Expert Working Group. Andrew Harris is with us from Amazon also on that.

Geoff Noakes I don't think is here today and Beth Allegretti who's one of Cecilia's colleagues. Are there anything to update us on what's going on in that PDP?

Woman: Meeting tomorrow. So we have the face-to-face for two hours. We're already facing opposition that we always do with certain elements in the community. But no. Except I think Chuck is doing a really good job of organizing the work.

Steve DelBianco: Excellent. Thank you. So let's turn to the second item on the policy - Andrew, any you wanted to add on that? Okay. Great. Thank you. Sorry.

So the next one is the privacy and proxy services accreditation. So privacy and proxy services are employed by registrars to hide the identity of a

registrar. Right. And they have certain obligations to relay and reveal if someone has a legitimate need to contact or learn the identity of the registrant.

The privacy and proxy services have never been regulated any significant way until the new gTLD expansion. And we used to leverage that expansion. The BC was really the leader on this to get ICANN to come up with a plan to say that a proxy and privacy provider needed to be accredited just the same way that registrars were accredited.

And so we were able to get that into the 2013 registrar agreement. And then we turned around and got a new gTLD program to say that you can't distribute new gTLDs unless you use the new RAA. So we used leverage upon leverage to try to get our policy preferences baked into the process.

And I guess the good news about that is we got it baked into the process but the bad news is now we have to eat our own cooking because it's time to build the accreditation for privacy and proxy.

So we did all the work to get it in there as an imperative. And now we need to do that work. So I'm pleased that we've got a comment drafted by Ellen Blackler. I circulated it over the weekend. It's very brief. And Andrew Harris, you and Andy Abrams of Google both raised a question about this financial penalty.

So if any of you open the second attachment on that policy calendar, you'll see Ellen's draft and then highlighted in yellow what Andrew and Andy have in mind. Let's have a brief discussion about removing that, which was your suggestion. Go ahead.

Andrew Harris: Sure. We just felt that binds in this place seemed a little superfluous. That the accreditation is more than appropriate to handle any issues that arise for non-

compliance and that's how these matters are typically held from an enforcement perspective.

And also the notion of financial penalties had been considered by the group that was reviewing this initially and it was something that was not included, so. It doesn't seem like it's going to go anywhere anyway. So we think we should just stick with the accreditation.

Steve DelBianco: Anyone else want to speak to that in the queue? Ellen said she didn't have a lot of ownership of the point. She simply was building on the shoulders of our previous comment. And I think Andy and Andrew have suggested we simply drop the words and financial penalties from the second paragraph. And again folks, this is the second attachment to the policy calendar email I sent last night. Susan.

Susan Kawaguchi: So - and I don't know why this - at least I have not focused on this element of it. But we did have a discussion with a staff member where there's some within ICANN - they - I'd always assumed that if the accreditation would require a contract and they're talking about not having a contractual agreement to accredit that proxy provider.

So not sure what the stick is then. So if there's no contract and they just have to agree to best practices or something - I'm not sure. There's no clarity there. I don't think they know yet.

So I think we need to decide also is there a contract. And then, you know, is there or is there not financial penalties? I could go either way on that. I don't, you know, the accrediting someone or the threat of the accrediting may be sufficient.

But if there's no contract, how are they - how is compliance going to force somebody's to act? So I think we may - maybe we just need to put that in there that this should be a contractual relationship.

Steve DelBianco: These comments close the 16th of March. So Susan, there are four bullets in the draft. We need a bullet in front of them once sentence long...

Susan Kawaguchi: Okay.

Steve DelBianco: ...raising a concern that having done all the work of designing an accreditation program that it would be a failure to not require the contracts be employed to require accreditation. So I'll look to you to draft that one sentence and we'll insert it in there. And I do generally see support to removing the financial penalties part. Marilyn.

Marilyn Cade: I'm just going to make a very quick historical reference. A, I support removing it from this submission, which does not change the historical submission. So I just want to make that comment.

But I just want to mention something. We went through this in the past quite some time ago and I mean really some time ago, maybe 2002, 2004. We could not - we really struggled with the resistance against the - what was called by - at that time the nuclear option of de-accrediting.

So, you know, I support the filing but I think we need to begin to prepare ourselves for making it clear that they need to enforce the quote nuclear option. You kill a few birds and fewer come to your yard.

Susan Kawaguchi: Yes.

Steve DelBianco: Marilyn, that suggests that we link the first and second bullet. The first bullet talks about enforcement and compliance. The second bullet talked about de-accreditation. But we should link them to suggest that part of enforcement is the eventual escalation of enforcement steps to the ultimate step of de-accreditation. That make sense? Between the first and second bullet? Okay. Any other comments on this?

Susan Kawaguchi: Well...

Steve DelBianco: Go ahead Susan.

Susan Kawaguchi: I think we could link it to the process for registrars being de-accredited. Because they don't - if they're issued a notice of breach, it doesn't necessarily mean they're going to be de-accredited. But it does mean that they can't take new registrations.

Steve DelBianco: Right.

Susan Kawaguchi: So and I found that out with the euro DNS and the facebook.com issue. So they were forced - the first notice of breach that ICANN finally issued was, you know, the impact was they didn't lose their accreditation. They just couldn't take any new registrations. So, you know, it's one step before.

Steve DelBianco: Yes. But so prior to de-accreditation, prior to losing your accreditation, there's an interim step in the registrar side where you are prohibited from accepting new services - new registration.

And I understand the new registrations but this isn't about registrations. It's about privacy and proxy services. And they could provide the service to somebody that's been registered for years. So what's the parallel? Is the parallel that they wouldn't be allowed to accept new customers?

Susan Kawaguchi: Yes.

Steve DelBianco: Okay.

Susan Kawaguchi: That's the way - that's the way I would do it.

Steve DelBianco: Okay.

Susan Kawaguchi: So maybe we need to make that pretty clear.

Steve DelBianco: Okay. And the time to do this is going to be today so that we can circulate it. I'm happy to be the keeper of the document. If you send me an email with crude text, I'll plug it in and circulate something else hopefully tonight or tomorrow. Any further comments on privacy and proxy? And thanks to Ellen Blackler. I don't think she's on the phone but did great work on this over the weekend. Berard, you got something for us as well?

John Berard: Just do we need to acknowledge the affect of compliance and de-accreditation on the people who are making use of the service? Do they just get shifted to some other provider? Do they lose their protection? Do we want to make some comment about that?

Susan Kawaguchi: Well that's why the first step with the notice of breach works because you don't - they don't have to find a new proxy service provider to move these to.

Steve DelBianco: Very good answer Susan. So if we emphasize the notion that one of the escalation steps in enforcement is to suspend their right to take any new customers. That does not jeopardize the services provided to existing customers.

Eventually John's concern would come to fruition if de-accreditation happened, right. So eventually that has to happen. And I don't know for sure that that's a concern we need to own since we're dealing with somebody who was accredited under certain expectations and conditions but failed to meet them, failed to remedy the breaches that we're told by ICANN compliance.

And once you've walked up to the top step of this escalation ladder, there are consequences. Unfortunately they do reflect on people that went in and used the services and will have to find a new provider for their privacy and proxy. That's not the same thing as changing a domain name. It isn't. The domain

name stays the same. They simply change who their privacy proxy provider is with the registrar. Right.

John Berard: Steve, this is John again. So...

Steve DelBianco: Go ahead John.

John Berard: ...even a - when a registrar gets de-accredited, then, you know, ICANN I think has the role of pushing the registrations to a new registrar. There are certain aspects of the registry agreement that allows a registry to shift registrations between registrars.

But I just - knowing the current mood of focus on Internet users and the role of registrants and within the ICANN ecosystem, I just wonder if we would serve ourselves if we make some reference to registrants rather than just - rather than not. That's all. And maybe it's more a political concern of mine that it is a practical one.

Steve DelBianco: Thank you John. I look forward to an email from you to BC private in the next six hours with a sentence about our sensitivity that needs the registrants. Now again, we do not mess with the registration. This says that you still have your registration but the folks you used for your privacy proxy has to change. So it's...

((Crosstalk))

Steve DelBianco: ...move to a new vendor. And you update your record. Sorry John. Go ahead.

John Berard: You know, it may just be that we acknowledge that there needs to be a clear path for registrants to maintain the protections that they initially thought. That's all.

Steve DelBianco: If I was - if the BC were using Blacknight as hosting and our hosting provider went out of business, I don't believe ICANN provides that path for registrants to migrate to a new hosting service. To me there's really no difference between a hosting service, a privacy proxy service.

It's just the service providers that are outside of the orbit. And I don't understand why we're going to impose special obligations on ICANN to help migrate a registrant who was using a third party privacy proxy service. John, did you want to follow up on that?

John Berard: Only that we're creating a burden on registrants at a time when there is a lot of attention on the - on registrants as the point of the spear for Internet expansion on a global basis. So as I said, it's probably more a political concern than it is a practical business concern.

Steve DelBianco: Thanks John.

John Berard: But I'll draft a sentence or two and send it off to you.

Steve DelBianco: Great. And send it to me but please copy BC private and then I'll try to assemble all this. Marilyn.

Marilyn Cade: Very quickly Steve. Let me just parse what you just said and just agree with only one part of it. A Web hosting service is the commercially provide service that ICANN has nothing to do with. You're totally on your own. There's no accreditation. And we're not trying to as the BC or as the ICANN to establish any kind of standards. The proxy service we are trying to bring under a policy guidance. So I think that's the distinction.

Steve DelBianco: Fair point. Anything else on this? Thank you everyone. Next one is a draft of how to do a framework of principles for these cross community working groups, which can be likened to a yearlong root canal in most cases. I can speak from experience.

Comments don't close until the 2nd of April. So we have plenty of time. But we don't have any volunteers on this yet. So I will ask very quickly if there are volunteers in here who've been in cross community working groups of any kind and can help us to read this set of reports to develop a framework.

So it's a charter to develop a framework to guide the formation and operation of future cross community working groups. So can I have some volunteers? Thank you Marilyn. Appreciate that. Anyone else? That's a really good start. Marilyn, that's going to be very helpful. Thank you.

The next one is Item 5, charter amendments to gTLD Registry Stakeholders Group. We discussed this on our previous call and suggested that a few of the BC members who happen also to be in the registry constituency in some cases with the whole portfolio, in other cases as a brand whether there are insights and concerns that these companies can share with the BC.

And if so, that would give the BC in our perspective - the perspective of registrants and users, not the perspective of registry operator. Because we would love to understand whether there's comments we potentially could make on their charter.

And a few of you took that as an action item on the last call. Some of you responded with an email but it'd be good to go back through them. I'm thinking of Amazon, Google, Microsoft and others.

Again, this is on the registries new charter and the amendments that are involved there, which don't recognize the existence of brands at all. And base the weighted voting in the registries' constituency from now on based on a combination of number of registrations and the dollars of fees they pay to ICANN. So any of you who were involved in that or your colleagues, do you have any insights for us?

Cecilia Smith: Cecilia Smith. So I would - I did not participate in that first call but would be very interested in joining to help with comments on that. What - we just came back or I just came back from the Registry Stakeholder Group. The BRG, the Brand Registry Group, is an association currently as an observer, which means that we finally have access to hear what is happening the Registry Stakeholder Group, which we've not been privy to until today.

Part of that is - the next step is to give us full membership access in the sense that we can have a vote as an association. And then from there I think we just have to continue pushing harder to get more recognition from the brands perspective.

We do have members within the Brand Registry that are voting members within that space. So we have ten voting members and then I think three members that don't vote. So...

Steve DelBianco: Under the new charter?

Cecilia Smith: As - yes. As - regardless of the charter as just members of the Registry Stakeholder Group.

Steve DelBianco: The new charter is the only thing we're commenting on.

Cecilia Smith: Yes. We will...

Steve DelBianco: And so we want to understand if the new charter bears any comments from the BC perspective. All of you who were part of that - didn't the Brand Registry Group approve this charter as well? We were told that they did. Yes Andrew, they did. So the brands have already spoken.

Cecilia Smith: Right.

Steve DelBianco: Whether they had a vote or not, they stood up and said we like the new charter. And that would be a message to me to stand down unless there were things that companies - BC members didn't get that would end up benefiting the BC perspective.

Cecilia Smith: We are - so the Brand Registry Group is still talking to the Registry Stakeholder Group. So if I can get back to you on that in a couple days.

Steve DelBianco: Because the charter's up for approval now. We're not going to do any wordsmithing. We can mostly express the concern that business perspective - business registrants...

Cecilia Smith: Sure.

Steve DelBianco: ...are not getting a proper amount of attention. Andrew.

Andrew Harris: Thanks Steve. So from Amazon's perspective, we don't have problems with the charter revisions. But Cecilia, if you go back and do some research and if there's something that you do want to consider, you know, raising in comments, I'm happy to work with you on that.

Aparna Sridhar: Same with Google. This is Aparna.

Steve DelBianco: Great. Thanks everyone. We're going to move to the last topic, which is the recommendations of the Geographic Regions Review Working Group. This is a working group that is trying to continue ICANN's efforts to increase geographic diversity at ICANN. And those comments close at the end of April. Plenty of time on that.

But over the weekend Andrew Mack who had volunteered to draft comments did an analysis of the recommendations and then he's going to work with Jimson and Cheryl to come up with a recommended BC comment. Andrew,

we have some time. Could you give us a recap and where you think we might go?

Andrew Mack: Sure. Sure. And thanks very much Steve. Thank you to Jimson and to the others who've given us some - to Cheryl for her comment. Basically the idea is that they would look - the report looked at the current setup of geography and what our options were.

ICANN has a kind of unique system that they use that developed over the course of time. They evaluated whether or not it made sense to change that to being more in keeping with the U.N. or some other geographic setup.

The recommendation that they make is that that would not be necessarily beneficial to the community in that it doesn't get us anything new and might cost some extra money. And I think that that probably makes good sense.

There was also a discussion about - internally about whether or not gender should be added to this as part of the (unintelligible) because everyone agrees that geographical diversity is important.

And I know it's International Women's Day so I wanted to throw that out. Given that we are in - that basically there was a fairly narrow mandate of this particular report looking at geography.

And so I wanted to throw it out to the group for conversation. If we wish to try to include gender and potentially other markers of diversity in this, how would we want to do it that wouldn't fall too far outside of the recommendations of the report? So who - I'd like to open the conversation up to people who would like to discuss that.

Steve DelBianco: Yes. We're looking for creativity on how to work that in. Marilyn, go ahead.

Marilyn Cade: So guys, this is not the first time this topic has come up. In fact, when we met in Brussels, there was quite a heated debate about whether there should be metrics, standards, requirements, et cetera.

I - women do - women and girls do make up roughly 50% of the world's population. However, I'm a little sensitive about - and I am also taking note of the fact that the sustainable - the United Nations Sustainable Development Goal 5 is about improving gender diversity and gender participation.

I'm happy to work with others to have a perhaps laudatory statement that I'm not - I think we should be aspirational in encouraging mechanisms to increase all forms of diversity but not to go over the board in any particular kind of diversity. But to be aspirational in - otherwise we're going to find ourselves setting quotas and arguing about the quotas.

Steve DelBianco: Marilyn, Andy, consider this for a minute. In the text on geographic, we could make a recommendation that whenever ICANN reports geographical diversity results that they report the total and the breakdown between men and women. And we would force them to start to report that data...

Marilyn Cade: Yes.

Steve DelBianco: ...in a way that gives visibility on it. Marilyn.

Marilyn Cade: Okay. Let me make a very quick comment. In the IGF - I'm going to use it as an example. In the IGF, the Internet Governance Forum, we report on stakeholder group and on gender attendance.

We are now in an adjacent forum. We are now going to require the national and regional IGF to also gather at registration the - and report on it. We're not measuring them but we're reporting on it. And I - it is already in only two years begun to make a difference.

Steve DelBianco: We should put in our comment raise the aspirational aspect of gender diversity in the context of geographical outreach and diversity and insist that the data be reported that way. Andrew.

Andrew Mack: I never - I was just in (CP). This report is actually fairly narrow. It says do we or do we not want to change the geographical categories that we use. And I think we're all in agreement. Tell me if I'm wrong. But I think we're all in agreement that that adds a level of complexity that doesn't necessarily give us anything more as a community. So I've got to park that idea if everyone's comfortable. Okay.

Now on the second - and so that since there is nothing specifically aimed at gender diversity but the general idea of diversity taking Steve's point, why not suggested as part of our aspirational goals that we would like to get - we would like ICANN to be reporting on the percentage of or the number of women that attend each of their meetings both Intersessionals as well as major meetings so that we are able to track this and maybe also ask them to track the number of, you know, of positions that are held by women.

And you use that as our marker and so that we're not trying to shoehorn in something that wouldn't necessarily fit with this report but this is a good opportunity I think to do it that way. Make sense everyone?

Steve DelBianco: Yes. I think that's great. That's creative. Susan.

Susan Kawaguchi: So I totally agree with that and I haven't read the report, so. But I just think that we as women especially have a responsibility to make sure, and especially in ICANN. It's gotten better but, you know. You look around the room it's not equal.

So but - and in the CCT review was very clear that, you know, we've got three out of 15 women on the CCT Review Team. That's unacceptable. So, you know, we can expand that statement a little bit to include all review

teams, all positions, you know. Let's make it as clear without being - and detailed without being too detailed.

And the transparency, which I think we need to make, we need to comment on transparency in every comment. Doesn't matter how much it really relates to that comment. But transparency, transparency. So they need to report these.

Steve DelBianco: (Unintelligible) coupled with granularity because if...

Susan Kawaguchi: Right. There you go.

Steve DelBianco: ...they just give us a total, you haven't learned anything about the breakdown.

Susan Kawaguchi: Right.

Steve DelBianco: And let's note for the record that the BC members in this room today are 50-50 men and women.

((Crosstalk))

Steve DelBianco: Sure did. Exactly. Count them up. Count them up. Yes. It's 12 and 12.

Andrew Mack: Okay. Well that's good for us, right. I know that that's not the case across ICANN. Susan, can I ask your help then in kind of going into some of those granularities because I think that would be really useful. And frankly it might - it will reflect I think positively on the BC that we mentioned that the group that put this comment together was half women and half men.

Marilyn Cade: Steve. Steve, it's Marilyn. I will accept that comment but I will tell you the count this morning in the CSG was 11 to 27.

Steve DelBianco: Thank you. The BC once again leads the way.

Chris Wilson: Gabi. Gabi.

Steve DelBianco: Gabi. Sorry. Gabi is also on the line. So if I count the Adobe...

((Crosstalk))

Steve DelBianco: And Gabi is supporting where we're headed with this. Marie.

Marie Pattullo: Just to add to that – Marie from AIM. As I was catching the scribe morning. I'd like you to know that Denise Mitchell was sitting at the table according to the scribe feed. So I think your count is wrong Marilyn. I think we were one less.

Marilyn Cade: No, no. No no darling.

Marie Pattullo: I may have changed it but you were wrong this morning.

Marilyn Cade: I know the people. I counted their faces.

Steve DelBianco: Gabi.

Marie Pattullo: Can I say something.

Gabriela Szlak: This is Gabi. Can you hear me?

Steve DelBianco: Louder please if you could.

Gabriela Szlak: Okay. So just that sometimes the combination with gender races and geographical races also affect a lot. In my case I put on the participating ICANN meetings with financial support from ICANN.

And when I have a baby, then it becomes impossible for me to participate during the whole year in which I have the travel with my baby unless I travel

with someone else. Just what Kiran said about not even all of that - no support for that I understand maybe it's too much to ask that from ICANN. But when you have this combination being from a developing world and a woman, then I think the challenges are higher.

So just wanted to - even though we are half and half now, I can be there. So here at work able to travel with her baby because it's different to have a different kind of support from her company. So the two - the combination affects a lot. Just wanted to make clear that point.

Steve DelBianco: Thank you. Before we move to Council, Susan and Phil, the policy calendar - includes the highlights from the agenda that you have today. And you guys have quite a bit to discuss with us about Council.

Since CCWG's approval is part of your discussion, wanted to refer to the rest of the BC members. We've already covered it in the BC closed meeting and we covered it in the CSG this morning.

At the very bottom of the policy calendar I've repeated the reference to the BC having achieved nearly all of the things we asked for in the last round. And I attached that as the third document attachment. It's a comparison of the BC's comments in the third draft of the CCWG with the final.

So at the bottom of that email I had also included this potential for the BC to support a statement that the NCSG wants to make regarding inviting and urging all ACs and SOs to give us an indication as soon as they can about whether they intend to participate so that we can write the bylaws accordingly.

And the bylaws writing window I learned last night is far shorter than what we had thought it was. We'd basically need to know in the next four weeks or we end up locking in the expectation that five of the AC/SOs are going to be participating.

So the thresholds are set sometimes as high as four. If we end up losing one of those participants like say the GAC for instance or the ASO, if they stepped out, then suddenly we only have four ACs and SOs participating in the empowered community and the thresholds can't be set at four because we don't ever want to require unanimity.

So I set that table for you and I circulated this last night in an email. We don't really know whether that yellow highlighted text in my email at the bottom of this - we don't really know whether it'll get us anything.

I personally believe it doesn't cost us anything because it's - I don't believe it's offensive to the GAC. But this may be a moot point because unless Susan and Phil in the negotiations with Council learn that it - then there really isn't any point in heading down that path.

So with that, Marilyn, let's let Susan and Phil walk us through the Council part and when we get to CCWG, if this paragraph becomes essential because otherwise we probably don't even need to go there. I haven't even heard if it's still alive as an issue. So Susan and Phil, that's it for me. I'll turn it over to you to take care of Council.

Philip Corwin: Yes. I don't have much to add from my comments in the CSG meeting this morning. I still have not seen anything on the Council list where any Councilors indicated that they want to vote on any of the recommendations or whether they plan to vote no if there's a final vote on the full package. And there would only be a final vote if there's a vote against one of the recommendations.

And so I don't - you know, whether it gets us something or not to me personally is not the - I think, you know, it ought to - it's not that big an ask to ask an SO or AC do you intend to be part of this empowered community.

I mean they've had a long time to think about it. And if a SO or AC at this point in time can't even indicate that, I am personally concerned about their ability to participate in the empowered community in a timely way.

So you may have one that said we're going to participate in principle but in practice is usually unable to participate because they cannot reach a consensus view within any reasonable timeframe given the time when the - in the accountability process.

Steve DelBianco: If I could follow up with you on that, I mean you're still right. The ASO is one of the five. ASO is the Address Supporting Organization. They indicated very early on they wanted to participate.

But they're focused on addresses. So suppose the first two or three time we exercise the empowered community over a Board spill, a bylaws or budget block, the ASO says you know, this has nothing to do with the numbers. So we're just going to sit this one out. We're going to abstain. And they ask everybody to do that.

If that ends up being a pattern where they said they'd participate and turn out to abstain more often than not, we would find ourselves in a position of needing to get unanimity of those who are going to weigh in.

Philip Corwin: And to continue that thread, if two SOs or ACs are unable or unwilling to participate under particular accountability process, then you wouldn't even get - you wouldn't even get the - if you had the unanimity among the remaining ones, you still wouldn't reach the threshold you need for the ultimate action.

So I defer to you Steve on what the report says of that. But it seems to me the bylaws have to say that if an SO or AC doesn't participate in a timely way, the threshold would have to come a notch down.

Steve DelBianco: That's not in our report.

Philip Corwin: I know.

Steve DelBianco: So the bylaws won't say that. But the bylaws will say is that if an AC or SO tells us thank you but we're not going to participate anymore, at that point we change the bylaws. We change the threshold.

So the progression would be that if the ASO over the period of a year found itself continually not participating, the community would need to have a conversation about that. Should the ASO step out? They may not want to.

In fact, what they may say is that there are seven powers here. There are three of them we want to be part of and four we don't. We can actually change the threshold for just the ones that they're not part of. So we can make the threshold specific to the powers. And I think there's an opportunity there.

The statement that's in yellow is not intended to single out any one group. It ends up being felt most acutely by the GAC who's in a tough position to decide. But it's not meant to be just about the GAC. So we have some hands up on this topic. I guess I could manage the queue for you folks. Aparna.

Aparna Sridhar: This is just a question for Susan and Phil. And I think you probably circulated on this - on the list so I apologize. When is the deadline for Councilors to weigh in as to whether they want a vote on a particular recommendation?

Philip Corwin: Six pm tonight. And there's a special Council meeting from 6:00 to 7:00 where that's it. That's the drop dead time to state whether or not you're going to ask for a vote on any one or more recommendations and whether you intend to vote no on a pack - on a full package of the 12 recommendations if we have a vote on that.

So we'll know by 7:00 pm tonight coming out of that meeting and we can share that information with the BC members.

Steve DelBianco: One follow up to - do you need to know tonight whether any of the GNSO constituencies intend to have statement accompanying their vote? Is that part of tonight's session?

Susan Kawaguchi: ...has asked for is to be very open and honest. That's what this - we usually have a Tuesday night meeting anyway to go through motions and not be - be able to say things you wouldn't say when you have an audience. So it's a closed session. And so he is asking for this to be the cutoff. Whether or not we get that or not out of everyone I don't know.

Aparna Sridhar: Maybe this is the question that you're getting at but I guess in my mind the - is there a way to sequence things such that we wait to see if anyone asks for a vote on any particular item -- a recommendation I guess is the best way to call them -- and then if we sense from that that there's trouble, weigh in with a statement that we think the NCSG would find supportive. Or is that not kosher given kind of the way that James has set up the timeline?

Steve DelBianco: I'll bet that would work fine.

Susan Kawaguchi: Yes.

Steve DelBianco: It may be that - it's Recommendation 1 and 2 where they would likely bring this up at the NCSG. So we may not be the ones that actually put the statement on the table. It was NCSG.

But if they put the statement on the table, I guess what Phil and Susan need to know is that is it all right for the BC to support that statement on the expectation that it might help a bit to get them to a yes with that kind of a statement?

And I for one and Phil at least for two believe that that's appropriate for the BC to do that. And maybe we should go around the room and collect views on that.

Chris Wilson: This is Chris. I see Gabi has commented in the chat room. Gabi, did you - do you want to say something? It's a little - it's a little - quite a little unclear what...

Man: Yes.

Chris Wilson: ...your comment means.

Gabriela Szlak: Be or not want to be a (unintelligible) participant. So my question is if for instance more SOs and ACs say no, if this affects in any way the Council and the voting. How this will (unintelligible).

Steve DelBianco: Not in Council. This is not about Council voting. It's about voting in the empowered community, which is the entire cross community.

Gabriela Szlak: Yes I know.

Steve DelBianco: So none of this would affect Council voting.

Gabriela Szlak: Okay. So maybe I'm confused. I thought this was related to making more members of the Council vote in favor of the whole package. The...

Steve DelBianco: Or you do have it right then. Yes. You do have it right. And this arose because of the Non-Commercial Stakeholder Group who initially was very concerned about the GAC participating and thought this was in some sense a way to pressure them.

On the other hand, there are many of us who are fine with the GAC being in the community - in the empowered community. Completely fine with that. But

we understand that these thresholds can't be artificially high or we'll never be able to get the empowered community to do anything.

So we have a general view that it would be better to know sooner than later and certainly in the next four weeks because we're writing the bylaws. So that's the point that Phil and I have made many times.

If it - if we can get that certainty, it's beneficial to more than just the NCSG. And certainty for us frankly would be the GAC saying yes, we'd like to be part of the decisional community. Not an effort to force them to say no.

Woman: Yes.

Steve DelBianco: But Marilyn has her hand up.

Marilyn Cade: Yes. I - it's Marilyn. I need to report the conversation that I had with -- this transcript is public, right -- with a member of the European Nordic Government and with a member of the eLAC government separately about this issue.

Both of them - so think you have - here you have a Nordic country from Europe and you have an eLAC country from Latin America. Both of them report that it is very, very difficult for some governments - there was also by the way in the conversation a representative of an Asian government.

Both report that it is very, very difficult for them to commit to - that they will know whether they can participate in that role because the issue might change. The issue might - I understand you - I understand what you're saying to me. I'm explaining to you what they said.

That some governments are required to take - come empowered to make a decision on the spot and other governments are required to go back and take consultation.

So actually Steve, I think what they're still saying - what I'm hearing from my consultation with them is it's very hard for the GAC as a whole to predict today and that's what we're asking them to do.

Steve DelBianco: Yes. Let me clarify. That's not it at all. We're asking them to say when we write the bylaws next month, should we count you among the five AC and SOs generally who intend to participate. And that doesn't mean that you must vote in all cases, on any given issue.

A year from today we have a bylaw coming up for approval. The GAC gets together and says, you know, we're going to attend the meeting. We'll attend the forum but we'd prefer not to oppose or support and we're going to abstain. Or we're just going to advise.

On any given issue they can support, oppose, abstain or advise. So this isn't about the issues down the road. This is about a general point of entry that has to be known in the bylaws in the next four weeks. And that's why I see that as a distinction. And that question has been in front of the GAC for 14 months.

Philip Corwin: Yes. Steve, I just - just to better inform this conversation, I just looked again at the proposed process for how the Council is going to deal with this, which of now no one's objected so it is the process.

The deadline tonight is just to declare whether you're going to ask for a vote on any recommendation. And then James has asked and no one has objected if anyone thinks they're going to vote no on the package if we have a vote on that.

The deadline for - we will not necessarily know what statements will be submitted tonight because the deadline for submitting - let me just get down here.

The deadline for any written statements to be received from parts of the GNSO is by the close of tomorrow's public GNSO Council meeting or if it runs really long, which I don't think it will (unintelligible) no later than 1800 UTC tomorrow. So we may not necessarily know all or in any of the statements that are intended to be submitted by Councilors this evening. It will be tomorrow.

Steve DelBianco: Thanks for that clarification Phil. So ordinarily things happen on the fly in Council. They'll be in negotiations by email all night long. You guys will be confronted with a situation. And when it comes up, if it comes up, and the NCSG is suggesting that a statement like that if it had broader support in the GNSO would get them to a yes.

What I'd like to do is to give you the discretion -- this is just me personally -- give you the discretion to know that the - whether the membership would support you agreeing to this statement if you thought - in the moment you thought it would help make a difference.

And we owe you that to tell you yes or no. And I think Marilyn's expressed a concern that we shouldn't. A couple of us believe we should. I guess we should figure it out right here and now to know whether you have the discretion to agree to that statement. So how would you like to...

Gabriela Szlak: ...make a comment.

Steve DelBianco: Oh, Gabi, I'm sorry. Your hand is up. Go ahead.

Gabriela Szlak: Just I'm not sure if we are able to draft any possible amendments to this text. But maybe when you just talked about what is expected from the GAC, it's not to say that they would participate in everything.

And then it says here urge all ACs and SOs to publicly announce their intention to participate or not participate. And maybe someone that has better English than me can change that in order to make it a little bit more (soft) in the sense that (peers) have to say yes or no and that's not really the purpose because you've explained that to participate that would mean that they have to participate in every issue and in every single decision.

So I'm not sure if there's any room to drafting but maybe there's a chance there to make it a little bit more (soft) in terms of the commitment that they have to - if they say yes - I mean the GAC. I'm not sure if this is helpful.

Steve DelBianco: Thank you Gabi. This was text that was worked on on Sunday. And I'm certain that it will be different when it gets in front of Susan and Phil. So even if we in the BC were to wordsmith and make it somewhat clearer, there's no expectation that those would be the words Phil and Susan would confront in the middle of a Council meeting tomorrow. Because you've been a Councilor Gabi and you know what a...

Gabriela Szlak: Yes.

Steve DelBianco: ...moving target that is. There are - as Marilyn said, there are undoubtedly some GAC members who are - or don't appreciate the difference between saying we're in in the bylaws today versus participating every time a decision comes to the empowered community. There's (definitely) and I acknowledge that misunderstanding.

And we can try to clear that misunderstanding up in the statement but make no - I mean the GAC's not going to be in the room. They're not going to be part of that. And I have a hard time believing they'll ever even read these statements that are coming out at the end of the day tomorrow.

So we may be spending too much time on what could end up being insignificant. But if it could contribute to getting the NCSG to help support this proposal, that's significant enough to burn another few minutes of discussion.

So is there anyone who would object to giving Phil and Susan the discretion? Anyone here that would object to giving Phil and Susan the discretion to agree to a statement of this nature if they thought it would be helpful in the negotiation and voting tomorrow. Look for a show of hands and then comments. I see two - (how many) objections.

Philip Corwin: Just to clarify...

((Crosstalk))

Jimson Olufuye: I just want - Jimson. I just wanted some clarification. You did inform that this has been before GAC for 18 months. So what is our feel about being part of position?

Steve DelBianco: There are some confusion. There's an inherent difficulty of the GAC to come up with a yes or no on anything. And the U.K. Government for instance said we'd rather not be in the decision process.

So if any one government decides to say no, I don't want us to commit to be in the empowered community, that would block them from the ability to say that. One of the reasons when we designed this we said to each of the ACs and SOs you're invited in and you're considered in unless you say no. You with me on that?

And the GAC because of their difficulty to make a decision that's unanimous has neither said no we don't want to be in or yes we do want to be in. And this paragraph encourages if they can to give us a decision. Does that answer your question?

Jimson Olufuye: Yes, yes.

Steve DelBianco: Phil and then Marilyn.

Philip Corwin: Yes. And just to clarify, my understanding we're not talking about the BC proposing this. We're talking about whether we have discretion to accept in a fast moving dialog within the Council.

Steve DelBianco: Definitely.

Philip Corwin: Correct?

Steve DelBianco: It's your ability to react if you think it'll help to move the ball. We would not be the proposer in that. Because I don't believe given how closely the final proposal tracks to what the BC asked for. I don't believe we had any need to make any statement.

We were going to vote yes on all 12 or the package. And we don't need a statement unless getting the - unless doing it - agreeing to someone else's statement will end up getting a better result.

Philip Corwin: And again, to further clarify, the paren statement is not GAC specific. It's general and it's not a demand. It's just an encouragement.

Steve DelBianco: Marilyn.

Marilyn Cade: You asked for a show of hands and I object. But I do not object to being the minority.

Steve DelBianco: Thank you. Any other - all right. So we'll consider that you guys have - you're empowered to do what you see fit along the general contours of that text. And then Susan and Phil if there's anything else on the CCWG, you can move into the rest of the Council agenda.

Philip Corwin: Do you have anything else on CCWG Susan?

Susan Kawaguchi: (Unintelligible).

Philip Corwin: Yes. Let me bring you up to speed on the RPMs because I was part of the subgroup. Susan was but she was away on - away the one week that we worked on that though she was kept apprised by email.

At the last Council meeting we passed the motion to establish the working group for the review of all RPMs and all gTLDs. But we did not vote on the charter because some of the NCSG members think for some reason that the UDRP review should precede the RPM review, which to me makes no sense but that's, you know, I respect the difference.

But their rationale was that well, the staff only might have three options in preliminary issues report that we commented on. We suggested something else and we should basically delegate the decision of what to address and how to proceed to the working group because people should have a right to suggest other options besides the one that staff put out there.

I would note for the record that the - what's in the current charter, which is RPMs first and UDRP later, received the most support. It - I don't know - most of the comments supported that approach and not other approaches.

And it was point - then we - at the last Council meeting their volunteers were requested to work in a subgroup to see if this could be worked out for the vote tomorrow.

And in the course of that subgroup's discussions, it was pointed out that the NCSG wasn't the only one that suggested something that wasn't in the three options that WIPO and INTA had suggested that the UDRP should not be reviewed at all.

And if the - therefore if there was going to be decisional delegation of the working group, it should be free to adopt anything that was proposed by anyone who commented rather than well you can adopt the NCSG suggestion but the WIPO INTA one is off the table.

And Amr Elsadr who was the NCSG rep in that subgroup agreed that that was the fair and logical way to proceed. Now I do not know, and I asked Ed Morris yesterday and he didn't know of any - I don't know that an actual amendment to this charter will be offered after all this.

I would point out that Number 1, the approach that's in the charter is the one that coincides with the BC's public comment on this. It's the only one that makes sense in terms of coordinating the initial work of this working group with the parallel working group on new round subsequent procedures.

And it's the only one that assures that at some point there will be a review and not necessarily any change in substance or procedure but at least a review of the UDRP, which is the only consensus policy that's never been reviewed.

I'd also point out that the BC is one - has been on record for several years as wanting one procedural - at least one procedural change in the UDRP, which is the establishment of standard agreements with the providers so to assure some consistency and predictability in UDRP decisions as there are more and more providers accredited around the world.

So let's see what happens tomorrow. But I think that - again, I don't know if an amendment will be offered but I intend to speak for the charter tomorrow. I think it's a good charter. It's consistent with the BC position. It's the right way to go. And if there's an amendment offered, I'll speak against it because I think - and there's been strong support in the BC that Council should set the priorities for these working groups.

And we shouldn't, you know, we don't know who's going to volunteer to be on these working groups and after - it kind of undercuts the entire public comments process to have comments and to see a majority forging a particular way and then to say even though that was a result of the public comment period, we're not going to make a decision and just basically reopen all the questions for the working group to decide.

Any questions or comments on any of that?

Steve DelBianco: I support the plan. I think it makes complete sense. Stick with it.

Susan Kawaguchi: And then we can move onto the implementing recommendations from the GNSO review. We probably won't vote on that. That'll be deferred because we just haven't had time to review the document but Chuck Gomes who I think is chairing the working party did do a presentation to GNSO and showed us the three recommendations they are saying should not be implemented. He sort of has highlighted things between green, orange, yellow and red.

One of those was restructuring of the GNSO to allow - to give the commercial stakeholder group - to solve the challenges that we see with the commercial stakeholder group and especially what - yes what Wolf was talking about today with the board. So, you know, that was a flat out should not be done. I'm not sure that we agree with that so that we will want some input on that.

The other two - and unfortunately I can't even find the document right now but so there's another one that I didn't agree either. I thought it could be reworded a little bit and they said it was just so unclear, they didn't understand the recommendation. I think you could reword the recommendation and make it worthwhile and the third one I can't remember at all. But so we'll be working on that for the next meeting.

Chris Wilson: So real quick let me just - excuse me. This is Chris. Because it brings up a quite, you know, currently the BC has no representatives on a GNSO review working team because - because the previous two individuals have both since left the BC put out a call - sort of an APB if you will - to the membership of BC to see if we can get at least one, ideally two BC members to participate because we need to - we should have some participation there.

So I'm just saying that because I'm sort of putting it - reminding people again that this is something you should think about doing if you can because important work is being done and we're not - we don't have a voice right now on that working team so I just wanted to remind people of that - that notion. Thank you.

Denise Michel: So could you remind me what happens - so the working group comes up with proposals or suggestions. Do they go to the council for approval or what's the - what's the process for this implementation of the review? Does anyone know?

Susan Kawaguchi: Susan Kawaguchi for the record. So these all came out of the review but...

Denise Michel: Right, right, right. Yes.

Susan Kawaguchi: And so yes, so they are taking all of those recommendations coming to us and there will be a motion and whether or not to implement and how - and in some ways, you know, have indicated that the green highlighted ones - let's just go through with those and onto the red and not implement.

So if we agreed with the working parties' recommendation of the review recommendation then the motion would, you know, move forward to implement in that manner and not implement those three.

Denise Michel: So this is Denise Michel. So does the council have the ability to send the proposal back to the working group and ask them to reconsider or does the council have the option of changing the proposal and then approving it?

Susan Kawaguchi: I was under the impression – Phil, correct me if I’m wrong - that we would definitely have the option to say no, we do think this should be implemented and it should not be highlighted in red and B that if a recommendation is not clear enough that we should provide clarity.

Chris Wilson: This is Chris. Let me just clarify. Again there is still a currency to having people on the working party review. I just want to clarify that that’s notwithstanding the fact that recommendations have been given to the GNSO council. Good, okay. Thank you.

Philip Corwin: Thank you.

Steve DelBianco: Susan, John Berard in the chat asked did Wolf-Ulrich say to the board - what did Wolf-Ulrich say to the board this morning? I’m not sure.

Susan Kawaguchi: He was basically asking for reorganization because, you know, the CSG is sort of - was hoisted upon us in the Non-Contracted Party House situation so he wants that reviewed and changes made to the GNSO structure.

Marilyn Cade: Yes, just to be really clear - so what Wolf was reporting on is what was presented at the Intersessional that we talked about yesterday and if you haven't read the summary that Cheryl - if you want a quick summary of it - Cheryl wrote an excellent summary of the Intersessional. There are copies here. In the first paragraph it summarizes that - he was clarifying right - what the ISP’s are calling for. But Susan that’s what - but he - but it is about - he was also making it clear that he thinks that the work needs to start with us, not be driven by the staff or the board.

Cheryl Miller: Yes, I (unintelligible).

Marilyn Cade: If I could just real quickly - and the thing that the Birds Of Feather thing that is on the schedule - it turns out that is Renalia has an initiative on her own which is - has implications but it's being driven by other perhaps top-down restructuring interests.

Steve DelBianco: Item seven on the GNSO agenda is a discussion of RDAP - not a vote, not a motion - but a discussion of RDAP and you recall that we covered it not only this morning but also this afternoon - this notion of the interplay between the RDAP limitation and that of Thick Who Is.

It's 15 minutes on the schedule but please Phil and Susan would you use that time if this comes up tomorrow afternoon - use the time to probe about why the prioritization was RDAP before Thick Whois because this description on the agenda for council indicates that we did have a working party that suggested they be synchronized but synchronization doesn't necessarily mean which one goes first, right. So you can probe a little bit about that and maybe get some answers that'll help clarify the way we modify our position.

Chris Wilson: Anymore GNSO discussion? Are we all good? Okay, thank you all. Turn back to - if we can put the agenda back up Chantelle on the screen. And once again thank you Chantelle for doing this remotely notwithstanding all the hour - the eight hour difference for you. It's much appreciated.

So I - this is Chris speaking. I have included some items on the agenda. You'll see these are topics that we've noodle if you will whether on previous calls or some pieces of intersession and thought it would be healthy just for to make sure we've fully discussed them, included them on this agenda. We may not need any time or limited time if we want to discuss just these things but because we're all together here, it may be worth going into.

So as you see, the first item there is GNSO reform which we've sort of already been discussing a little bit. And then I know Marilyn, you had raised

the notion of board election reform for lack of a better term certainly at the intersession. So perhaps I think we've sort of covered GNSO reform a little bit but I'm happy that if people want to talk more about that, we can do that but since we've just had a little bit of discussion about that, maybe you want to just talk a little bit about your thoughts on board election reform and then if people have other questions and concerns, we can deal with them.

Marilyn Cade: Thank you. Marilyn Cade speaking. So when we founded ICANN we had ten - a board of ten with - they were appointed - officially the word is that they were selected by John Postel. There was an extensive review process. Over about 300 bios were reviewed by a team of people - some of whom you might know - and (Esther Dyson) was recruited as the board chair. Mike Roberts was recruited as the first CEO.

We always intended to add five more board members in an election process. We did hold an election process. There were problems in the election process and subsequently with that model for a lot of reasons and subsequently the approach was taken to use a nominating committee. At that point only five members of the board were appointed by the nominating committee process. The majority of the board was elected.

We agreed when we set ICANN up to give the - we debated intensely the question of giving the CEO the title of CEO and president or only the title of president and we made the decision at the time to give (Mike Roberts) a voting - the title of CEO/president and a voting role on the board because he was taking so many risks in helping to set ICANN up for his staff members, his personal credit card and a \$1.3 million line of credit, okay.

But we never really intended that the CE - that it would be a real CEO position. So I give you that as background. We - at that point we had the PSO, the ASO and the GNSO and the CCNSO that were all electing board members. So the majority of the board was elected.

At one point over my objection the majority shifted I should say over my advice. The majority shifted and now we select the majority of the board. The approach of adding - of removing the PSO as full board members and going through the liaison process was led by Crocker and Vint Serf for a variety of their own reasons.

So we now have five liaisons who are treated by Crocker as though they are full board members but they have no accountability to and as you saw today in the meeting we were just in - bizarrely the official represent - liaison representative from the SVAC chose to take his official board hat off and act as an advocate for his company's individual position.

So my proposal is that we look hard at returning to electing the majority of the board so that we have a closer tie between the majority of the board to the community which would perhaps put three seats to be elected by each of the existing SO's, select only five of the board and change the role of the technical liaisons so that they are not treated as full board members and change the title of the CEO to president and remove the president as a voting board member.

Kathy Brown, who is the executive Director of ISOC, is a member of the board of ISOC in a nonvoting status. It is customary in organizations that are more like ICANN that is they're not really commercial, they're more standard setting policy bodies, that the lead official is not a voting member of the Board.

By the way, I've looked into how we could make those changes. We could do it in two ways. We could do it through approaching these changes through the upcoming ATRT or we could pursue instantiating a second board review. The board is not required by the bylaws to undergo review as are the other structures of ICANN such as the GNSO, etcetera. The board agreed after pressure to accept board review which took place between 2009 with implementations in 2012.

Chris Wilson: Thank you, Marilyn and I - this is Chris. I had a question. Maybe this is for Steve and this is not - this isn't presupposed agreement or disagreement but does changing how the director is elected or created, etcetera impact the accountability proposal? Is there any sort of - no there's no coordination that would be - I mean...

Steve DelBianco: You know, I don't think so because the empowered community was based on what the bylaws said are the AC's and SO's so liaisons and so on who happen to all sort of have a boarded seat are not mentioned. For instance the IETF isn't part of the empowered community so I don't think it would affect it.

Chris Wilson: I'm good to actually - more explicitly maybe in terms of board removal for that matter and whether - and the dynamics between the board removing (unintelligible) know there's no interim. Okay.

Marilyn Cade: There couldn't be because the board - board members once they're appointed - the technical liaisons. It is Crocker who chooses to treat them during the meetings as though they are so he even does straw polls on how they would vote if they had a vote. They have no vote so that's a treatment decision and that didn't always exist. The previous chair of the board - (Peter Dungates Rush) - did not treat them that way.

Chris Wilson: And this is Chris again. This may be more my learning curve on this but because I seem to recall on the accountability discussion there was a lot of back and - this may be the resolve - there was back and forth about the notion of who sort of has ownership of that board member and I don't know if this in terms of who's nominated, etcetera.

So I don't know if the - if the current process is baked into the thinking of - and this may have been even pre - this may have been more early in the stage in ECWG and maybe things have changed now with the new model but

I'm - I could be going off on a tangent here but there's something I just thought, you know, if it's fine, it's fine.

Steve DelBianco: It's a fair question but the only board members that we seek to spill in a spill the board power are the voting members of the board delineated in the bylaws as voting members. There hasn't been any - and that includes non-com by the way. They would be spilled as well but there isn't any discussion of the liaisons. I'd have to look for the word liaisons. It's not even in the main report. I'll check the annexes too but it's a great question but I don't think that it would affect for instance if we did bylaws changes pursuant to changing the number of seats that come from the AC's and SO's.

I don't believe that has any effect on the accountability proposal. If we added or deleted an AC or SO would the voting board see that would affect the proposal and we'd have to adjust the size of the empowered community.

Chris Wilson: Other thoughts on this notion?

Steve DelBianco: I have one if you don't mind one. Marilyn, as the conversation keeps going and you've had this conversation for a decade - if in fact GNSO were to move from having two board members to something more than that at least in our current structure, four would be a heck of a lot better than three because then you could have Registries, Registrars, Commercial Stakeholders Group and non, which is better than what we do today as trying to find a mutually acceptable noncontract party house board member.

But so is there any magic to three or could we begin to say four even if only aspirational?

Marilyn Cade: So I've done a number of constructs on this and you're right, I have been thinking about it for a decade. So there's a couple of ways to look at it. You could say and by the way I could also give you an analysis of where the

board members have come from to the nominating committee over the last seven years if you individually want to see me offline.

The - if you - you could say that the ALAC could elect three so it could elect two. Wait. Don't they? And so you could have the split shifting to have the ALAC elect rather than having four. I actually think three is a good number and I understand it may be very difficult to elect but you could continue that each house elects one and then there is a member who was elected from the entirety of and I think moving to - the bylaws are clear.

Once you are appointed as a board member, you know, you're not owned by the community that sent you but look, here's what we know. Bruce knows a lot more about what is going on at ICANN because he comes from one of the contracted party communities. Markus is trying hard as he can to learn more and more about our concerns.

What we know about the nominating committee appointees is they're very often leaderless. They don't have trusted people to go to for advice. It's not a question of owning them. It's a question of having expert advisors that they can turn to.

Chris Wilson: So maybe - this is Chris. Maybe Marilyn, assuming that there's interest among the membership in pursuing this further--maybe it would help - be helpful too for you to sort of put down on paper what you think is a good course of action and I mean I think the ultimate question for me is always is this presentable and I think it will benefit the BC by talking more about this and pushing it and that I think would be helpful in sort of explaining maybe why this is in our interest to think about this some more.

And so I'm, you know, we can talk about it at future calls and meetings and continue the sort of dialogue on that. That - I think it would be helpful. So it's good that you sort of kicked it off now and maybe we can go on the...

Marilyn Cade: It's Marilyn. I'd like to make a final comment. In a casual informal conversation with a couple of folks from the ISP's at lunchtime and separately with the IPC, another issue came up. It's not an issue. Another possibility came up. If you ratchet back a few years, we did upon occasion hold a one day Intersessional meeting of our own that we organized ourselves within the constituency - the three constituencies - to work on certain issues that were of interest to us.

The one that comes to my mind at this point back in 2002 to 2004 was cybersquatting. Perhaps at the end of this meeting we could think a little bit about whether it would be in our interest to plan in the next year ahead to look at topics like this which are structural. They're not policy. They are structural. And think about a Intersessional discussion that we would work on that would help us perhaps in building unanimity or consistency with our colleagues but not to wait for the ICANN staff to convene an Intersessional to pick something that is important to us and work on it.

Chris Wilson: Thank you, Marilyn. That's a good suggestion. Further thoughts on this? Okay. Well now we'll just go ahead then and move onto the next item which is - as you see there's RSEP data gathering. I think we've carved out a few minutes here. We've had obviously an email discussion about it leading up to Marrakech for those that were at the CSG board roundtable. This is our main topic of discussion with the board.

Maybe Denise, if you want to just provide for those that may not have been there - I think there's some people here that weren't there but maybe just give a sense of what the board - I think they were generally - at least Bruce seemed to be generally accepting of it. I know Steve sort of said, you know, hey come back to us, you know, can we - can you come back to us with some more, you know, or...

Man: With data again.

Chris Wilson: Yes, exactly - some more feedback that they can work off of. So maybe you can give a sense of where you think - give people a sense of where the board - at least the board members that were there thought about it and we can talk more if you want.

Denise Michel: I think the board member from Affilius was concerned about what we would do if given data on the RSEP but I think generally the board members who were engaged seemed to agree that basic data gathering and analysis of a program that is ten years old and has never been assessed is appropriate. So I'll simply take the email that I shared with the list on this topic, rewrite it a little bit and send that off to Steve and Bruce so they have a record of it. I'm optimistic that something will be done.

Chris Wilson: Any other thoughts, questions on that issue - Marilyn?

Marilyn Cade: Yes, I want to go back - it's Marilyn. I want to go back to the comment I made because I am very concerned about what happened this morning. And so let me explain to you what I saw that happened this morning. I'll go into my larger concern about it later.

What happened in my view is a liaison from the SSAC who is the official liaison from the SSAC who is charged with acting only on the board as the liaison from the SSAC and is charged like other board members when he has a conflict to totally recuse himself from even commenting on a topic, went to the microphone, took off his technical liaison hat and said he was with Affilius - said he was with a registry - and began to ask questions and advocate about concerns that his company has.

That to me is a significant conflict of interest and I have real concerns about it. And I would like us to think about expressing informally some concerns about him.

Denise Michel: This is Denise Michel. I was being a bit facetious. I wouldn't support making an issue of Rob's questions about what our hypothesis - what our hypotheses are about RSEP and what we would do with the data. I think it would be appropriate simply to restate our very basic request and hope that they fulfill it and then move on. I would prefer to keep this issue separate from issue of board members' conflicts of interest or board structure at this point.

Chris Wilson: So we have, you know, it's a fair issue to raise, Marilyn. You know, let's maybe table that for the moment and just - but it's a fair question.

Marilyn Cade: Chris I'm perfectly happy to have it tabled. I just wanted to explain to the members why it was of concern to me but I respect the decision.

Chris Wilson: Yes. No, thank you. Okay well anything else you want to add? Okay. So we'll await the board's response and get a better sense of where they want to go with this but we'll continue to pursue it with them. Wonderful. Let's move onto the next item.

This BC charter discussion update - I know we've got two members from the charter team here - Phil and Andrew. Andy and Steve Coates aren't participating - can't participate right now. So maybe Phil could you provide a little insight? I think we're getting down to the end I believe. No, it's not the end of the review of the charter.

Philip Corwin: I am delighted to report that after a seemingly endless number of one hour calls every Tuesday at noon eastern time we have completed the draft charter. I don't know if Chantelle has conveyed that for your review. The only step left is to complete the application form for admission to the BC which is being changed into not just an application form but a status form and which BC members can update changes in their company and other things. So it will be not just a form for application purposes but for a kind of a statement of interest for BC members.

You will - in going through the former charter and no excursions on anyone involved with the former charter but just a great deal of it was ambiguous. It had a lot of subjectivity. It left a lot of room for subjective judgments. It seemed to mandate procedures that are not the way the BC actually operates.

So we're basically proposing for your consideration a charter which is in form and structure is quite similar to the existing charter but in substance is pretty much a brand new document and, you know, I don't think we should get it - at this meeting get into the details. That's going to require detailed review by all the BC members and then we can on one of our regular calls or on a special call the drafting team can take questions about why did you do this and what does that imply.

But it's been really lawyered to where we had a long discussion - sometimes 30 minutes on whether a particular word was appropriate and if it was confusing and whether we should have another one so that we really try to make it as tight and as clear as possible and to reflect the manner in which the BC actually operates today.

So there's a couple of issues left for BC consideration. We didn't get into whether the weighted voting for the different categories of members - whether we should still have separate weights of different categories and what the - we thought that was something the whole constituency should decide.

Another issue with which we struggled over several calls and finally gave up is that we - there is in the - not in our charter but in the GNSO charter there's language that no entity should be a voting member of more than one stakeholder group or constituency simultaneously and really what does that - we got into well can you vote in the BC this week and, you know, let's say if you're operating a new TOD registry and you have nonvoting status in the registry stakeholder group but they're dealing with a very important question

to you, can you next week switch to become a voting member of them and then switch back to us and we tried to set time periods and we just gave up.

We thought that this was something the whole constituency should think about and it may - and frankly the bigger question is whether when the GNSO rule was created we had very separate silos and there's been a lot more homogenization where different entities have more than one interest within the ICANN structure and maybe that rule is archaic or maybe the GNSO should be the one to collectively clarify what that, you know, voting in just one means and whether you can switch around once every week, once every month, once every year or not switch at all whether you, you know, once you revoke voting status, you're barred from coming back and asserting it again for some set period.

Let me see if there's anything else there. Oh, we did - there are some significant changes one of which the current BC - and again it's addressed to this. The current BC charter says that to be a member or to retain membership you can't derive more than half of your revenue from contracted party activities. In the proposed new charter that is reduced to 10% to make the BC membership really focused on companies that are - it doesn't mean that if you have registry operations or registrar operations you can't be a member. It just means they can't be more than a fairly dominium portion of your overall revenues to maintain BC membership.

That's a question the BC - the full BC membership should address but we did think that 50% was too high. We also addressed the question arose and let's say Andy Abrams who was chairing our group for about the past year was completely onboard with this. We addressed the question well can a, you know, can separate subsidiaries and affiliates of a large diversified company be separate members of the BC since they're separate corporate entities.

And we've changed the charter so the answer is no. That is - and again Google was completely on board with this. They agree that Google and its

subsidiaries and affiliates should not be able to be separate members because of the basic principle that we don't want any one company being able to have multiple memberships and multiple votes within the same constituency.

Those are a few of the highlights. There may be other issues of interested individuals here on the chat room that care about it but it's a very well-considered revision of the charter which we hope will be adopted. Of course the membership is free to address any of the issues raised there and to change it before final adoption but it's really a lot clearer and a lot tighter and the separate provisions - how they relate to each other - make a lot more sense now than the current charter and there's going to be a lot more certainty about what our charter means and how it should be interpreted compared to the current document. And I'll stop there and see if there's any questions.

Chris Wilson: Andrew did you want to add anything to Phil's report?

Andrew Harris: No. I mean I think the - I just - the point to echo I think from Phil's overview is that it is going to need, you know, a separate conversation from the BC. It's time for everybody to review the charter because they are - the changes are extensive and a chance for everybody to have probably a devoted meeting just to that to review everything.

Philip Corwin: And I do want to thank - one of the current drafting team has been Andy Abrams, Andrew Harris, Steven Coates and myself. We deal with this in the fire report. A lot of other BC members current and past have devoted a considerable amount of time to this process which has gone on for I think almost two years. So a great deal of effort and energy and thought have gone into this revision.

Chris Wilson: So I see Steven and Marilyn.

Steve DelBianco: Thanks Phil. I haven't read it yet but when you mention the 10% threshold of contract party revenue around a trade association and with the stroke of a pen several of my members became contract parties because they were dot brand TLD's. So do we have some degree of precision about that revenue if they - it's a company who happens also to be a contract party - does that suddenly mean that everything that they do is a contract party or do we have something more granular there? Do you understand the nature of the problem?

Philip Corwin: Yes, I understand it, Steve and again this is - we felt as the drafting team that 49.9% was too high to really differentiate entities that were primarily about the business use of the Internet as opposed to those engaged in deriving significant revenues from contracted parties actually. So we - but it was basically set low to clarify the issue and if the BC collectively wants to go with a higher number, that'll be the collective decision of the membership.

Steve DelBianco: And it would suggest that...

Philip Corwin: I don't have to go (unintelligible).

Steve DelBianco: The number is one factor and the other's the definition. So is Google now a contract party? Is Amazon a contract party? Is Fox a contract party under your definition?

Philip Corwin: Well it's based on - it's based on total revenue and I don't think, you know, not at this point I don't know of any - we'd have to look at this but I don't know of any company that's operating new gTLD's that's deriving very significant revenue as a percentage of its total revenue from that activity.

Steve DelBianco: I'm not making it clear. As a trade association, my members include companies who happen also to be dot brand and did that suddenly make them a contract party for the purpose of the BC litmus test.

Philip Corwin: Oh, you're asking whether - we're applying that to individual members so I think in your case we probably both can just net choice making - I don't have the language in front of me. I forgot to load the document and we don't have time to look it up right now. I know it went out but the question being is Net Choice making more than 10% of its revenues from contracting party activities. We're not going to - we're not going down to the next layer and looking at whether some percentage of your membership is involved or not.

Chris Wilson: Marilyn and then Jimson.

Marilyn Cade: On this question of voting in multiple places, I was looking in the bylaws. At the time we wrote the original charter of the BC - the original charter which was then updated in 2009 through an open consultation process that was chaired within the BC - we had staff support from ICANN because we had to - due to the other changes and the establishment of the CSG - we had to have a new charter for the BC and a fit into the CSG charter. I just mentioned that.

So we had long discussions at that time that included a discussion with ICANN legal staff about the voting in multiple places. I think probably I personally do not think that an entity should vote in multiple places. I think they should pick their voting home and hopefully we will make few enough decisions that are about - that are made on policy about voting that harms anyone but that's a personal view.

But I think we need to - if you haven't had a chance and I am on the distribution on the list. If we haven't had a chance yet to look at the linkage to the CSG charter Phil we just might want to do that and ask for help from (Ken Bower) - the support team - on doing that because I think the voting in multiple places issue will be harmful to our interests because I think it will cause public interest concerns with others who have to approve major charter changes for any organization because the charter change does have to go through a form of public comment.

Chris Wilson: Yes, thank you for that background, Marilyn and just to amplify a bit, again this is a provision in the BC charter which is trying to implement something that's in the GNSO and CSG rules so it's not something that originated. It's something that we're trying to be compliant with.

There is language in the proposed new charter in which it says the BC discourages members from switching voting status, you know. I forget the exact word but basically frequently for strategic purposes but within our working group we simply could not reach consensus on what the - on going further and imposing some sort of time limit saying, you know, once you join, you know, you're locked in for a calendar year or once you leave BC's voting status, you can't come back and a third voting status for X amount of time.

There just were very divergent views within the working group - the drafting group - and we felt that this was a big question that the full BC membership should address.

Andrew Harris: This is Andrew and just for absolute clarity, the revised charter does not allow multiple - vote again multiple constituencies or stakeholder groups. It does not allow that.

And also on your point on Ken Bour - he was - I wasn't involved from the start of this process but my understanding is that he was all along checking this very closely on the CSG and GNSO charter so that was part of the process.

Philip Corwin: In this discussion I think we should also extend thanks to Ken who was a huge resource and did excellent work on our behalf and was really every time we asked him to do some technical research or redraft something along these lines, by the next week the research had been done and the changes had been made. He really commend - he's one of the best ICANN staff people have ever worked with.

Jimson Olufuye: Okay Jimson speaking. We also want to appreciate the committee for the numerous times it devoted to this. First are the comments and then about three questions.

On the voting issue I think to be ideal before election takes place that the members can declare that they want to be voting member or non-voting member. So for that calendar year as I said to be quite clear so it would be right at the beginning.

And then the questions - I checked through the draft. I did not see anything about the (unintelligible) committee or the possibility of the BC basically appointing another committee down the line. So the chapter captured the (unintelligible). The finance committee were - the assets committee is missing and then...

Chris Wilson: Which one - which one is that?

Jimson Olufuye: (Unintelligible). There's no mission of (unintelligible) committee that the BC setup last year, no web criteria, no details. If you need them, I can send them to you so you look at it.

Then maybe after this agenda we'll be talking about general council provision indemnity so just too also flat that could be a placement for that. We need to capture that in the chapter. So do you have constituent with that?

And the question how long will it take for the charter to be approved by the board in view of the general council rule, you know, if we go ahead with the language for the general council, it will need to have that in the charter so that I can readily go ahead with this engagement with all the deliverables - the one from him. So just a projection.

I want to know how long it would take. I was wondering that BC approved today the charter from this house so following the processes, how long (unintelligible).

Philip Corwin: Let me do a quick response and let others weigh in. The average committee is there from an official standing committee and we just missed it and that's why we have full constituency review to see if we missed anything or if people were uncomfortable with anything there plus we have other things where we need member input.

On the general council we have a placeholder. We knew that something would be coming but since the Excomm hadn't decided on exact language yet, we couldn't put the language in there as a drafting committee. So as far as BC review, we're going to have to, you know, everyone's been very busy on accountability but the charter's done and I think we'll give - we should give members a decent amount of time to review it because it's a lot of detail in there and then either devote one of our regular calls to a discussion or set up a special call for a discussion before we can go further with it.

Chris Wilson: Marilyn and Cheryl.

Marilyn Cade: And did you get clarification - it's Marilyn speaking. Did you get clarification about the need for other public comment other than approval by the BC, review by the legal staff? Is there a requirement and a change in the charter for external public comment?

I thought there was. I just wanted to mention that because it will take - that's an additional 30 to 45 days.

Andrew Harris: Marilyn, this is Andrew. I'm sorry. I kind of understand what you just said but can you clarify? Do you mean that when they finish up the project charter that the throw it out to the public or just the BC members who are not here?

Marilyn Cade: Marilyn speaking. So guys, gosh I've become the resident historian here. The use of charters to establish a constituency - there's a procedure that had to be agreed to within the GNSO and then when the houses were created, there were modifications. So just for some of you, you were around when the very, very acrimonious effort to establish a noncommercial users - sorry - a noncommercial organization constituency the first time which was killed by the NCUC.

The subsequent effort now called the NPOC was a very different approach than what they originally wanted and the NCUC very effectively used the public comment process to force changes. I believe there is a requirement for a public comment opportunity from the broader community because the nature and structure of a constituency, you know, it could significantly impact the representation more broadly within the GNSO. That's why I was wondering if that had been checked on because I do - the registries modified their charter at one point and I'm fairly sure that it was put out for public comment.

Chris Wilson: I see Denise nodding her head. Do you have - I believe there may be a need for public comment.

Denise Michel: The answer's yes.

Chris Wilson: She's confirming it.

Denise Michel: Which is why you guys are looking at public comments for the registry charter. All charters have to go out for public comment.

Chris Wilson: And this is Chris. So the public comment period begins post board review - sorry - before the board - before the board decision. Okay, thanks.

Man: Yes, having said that, I can't think of anything in the proposed new charter that would, you know, raise a great outcry from the general public but who

knows. You never know what's going to pop up but there's nothing I can think of that other members of the ICANN community or the broader public would seize on and, you know, object to.

Chris Wilson: Cheryl.

Cheryl Miller: Just a quick point of clarification. I apologize about my voice. So you said that you can - you have to hold a vote in one constituency but is there any move to change whether or not an organization can belong to multiple constituencies and what is the rule with respect to an individual? Do those have to be different individuals or can the same individual attend meetings, you know? Are there any rules with respect to that?

Philip Corwin: No, there's no rule against any entity, trade association company - whatever - being members of more than one stakeholder group or constituency. The rule is that you can't vote in more than one but when you really say well what does that mean if I vote in BC Tuesday. Can I, you know, on Tuesday at midnight can I declare myself a nonvoting member and vote in a different group I belong to the next day.

That's the issue that we struggled with and could not reach consensus on but we don't change that in any way and the existing charter just says that, you know, you have to declare where - and as far as representation we keep the current rule that if your - if an entity is represented by an individual in another ICANN constituency stakeholder group, they need a different individual representing them in the BC.

Chris Wilson: Marilyn.

Marilyn Cade: I just want to offer one more point on that and reinforce how important that last point is. I know some of you may find it somewhat burdensome to have multiple people involved but just remember that we have fought very hard to have unique identification within the - on the - in the eyes of the board and

the staff and if we don't maintain that unique structural representation then I think we're going to find ourselves back in that battle with the board and the staff on being homogenized under the CSG instead of having the unique recognition that we're I think winning back.

Chris Wilson: This is Chris. Okay so I think - any further comments I guess on what Phil and Andrew have said? So I agree that we should have - I think we should have a separate call just on this. This is a pretty heavy list two years in the making and many, many man hours scheduling TBD. But I think that ideally I would have, you know, we'd give the charter - send the charter out - the new charter out to the membership with at least two weeks' time before any call to give people a chance to really do a thorough analysis and that said, I also think that considering that we have a public comment period that's going to have to take place and that we're going to have to wait on the board to make a decision, I think the desire would be that we want to get this out done sooner rather than later that, you know, my goal is we try to have a call on this, you know, within the next four to six weeks at the latest.

And, you know, working on peoples' schedules and so forth and maybe then we substitute the time, you know, instead of one BC call, we just do this call instead but that's my thought process.

Philip Corwin: Yes, I agree and Chantelle has confirmed in the chat room that we have not distributed it to you yet. We didn't want to dump another big document on you right before this meeting because we're not going to decide it here but I think we should - next week we can get it out to everybody and give you maybe two weeks to look it over. I think you'll find it's a very tightly written document and very comprehensive and then we can schedule a call where we can all talk about it and then I think it could be good to have people submit questions and requests for clarifications in advance of that call so we can have a really good agenda for the call and address every question and concern that BC members may raise.

Chris Wilson: And I also would suggest that as you've done today, flagging those issues that are - certainly that are outstanding, you know, topics of interest that we know we're going to have to talk about from your - from your point of view and there may be others that people will find as they read the document but certainly the ones we know already off the top of the shelf we can list those and get those the right attention. Yes.

Jimson Olufuye: Yes, to offer advice, we can obtain this outreach though - yes I was saying this is to you so that would be out of it. And if we're truly beginner (unintelligible) of language then that could be (unintelligible) too.

Chris Wilson: Great. Okay well let's move right along. Chantelle could you put up the - we're going to talk about the general council hire and that clause issue real quick. Could you put that language up? And while she's doing that, why don't I just give a lay of the land.

We've since - so that issue was first brought to the BC's attention I think at least in Dublin. Maybe it was even before Dublin but I know we had a discussion about this in Dublin just to summarize the BC. In order to effectuate - certainly to effectuate payment of membership dues, we need to setup an employer identification number, incorporate ourselves as a profit under - in District of Columbia and do some various other legal operations to be able to do that.

In order to do that we would need to get a general council that we would hire to frankly use his or her fund's EIN for our disposal. He would receive - you can see sort of some of the items there listed of what they would do - some of them administrative, some of them legal - and serve as the go-between between us. He also helped file any tax returns we may have.

We had hoped - we had been doing some due diligence since Dublin. We thought maybe we could find a way because the IPC has their own EIN but yet doesn't have a general council so we could sort of mimic what they've

done but it turns out that they received their EIN prior to 9-11 and so post 9-11 we're a different world now so we - what was available to them is not available to us.

So bottom line is I think certainly with (unintelligible) decided I think we do need to pursue the notion of a general council and to Jimson's hard work, we have a firm lined up. The question is just they've provided us an indemnity clause which is perfectly understandable. So the question before us is whether we can come to, you know, get a functioning indemnity clause and we can then from at least, you know, give to the attorney then he or she can then work on it.

But hold on a second. So I've - what I've done is - and we've also had this conversation I think a little bit on a prior BC call. I know Marilyn made a good suggestion about perhaps delineating the duties that the GC would be undertaking which I've attempted to do above and to give - to put - to cabin exactly what this person is meant to do.

So one issue is that in the addition - in the original indemnity clause it was treated as - the GC was treated as if he was an officer or member of the Executive Committee if you will but then not have any voting power. So unfortunately I've tried to make clear that he has to be I guess an "officer" of the BC in order to - for legal purposes - but make it clear that obviously that he - he or she has no power to vote on matters. That's up to the executive committee.

I've listed the delineated duties there. Some of them are one off one time things. I still would like to list them there. I think it's just important to do that. If for whatever reason we have to redo something then it's good to just have them there.

And then I've tried to I guess tighten if you will the four indemnification clauses in part because as originally written it indemnifies all officers of the

BC and I don't know if that's frankly necessary and so that was how I think it was presented to us by the attorney and that could just be boiler plate language frankly. But I think in this case really this indemnification clause really should only apply to the general council - he or her - him or her - and so I've tried in many just instances just tried to make it clear that this is a surprise just to the general council. That's why you see officer crossed out and general council replaced.

So this is what we've - I've tried to do. I don't expect we come to a conclusion necessarily here today but and the Excomm itself has to finally sort of also determine what we would want to sort of give back if you will to our council for him to look at but I thought it would be helpful to give people a sort of state of play on this.

We are anxious to get it finalized and poor Jimson is - I think he just lost a few years of his life trying to deal with this and I'm sympathetic. So if nothing else, I'd like to open it up for comments and thoughts from the membership that we could take back to the Excomm in our deliberation and finalizing this and of course we would go back to the BC in a future call - hopefully in the near future - to run this down. So Marilyn, go ahead.

Marilyn Cade: So thank you Chris. Marilyn Cade. I am - I helped setup an NGO recently. I'm on the board of Wave and I am the official treasurer. I am one of the two board members who have legal responsibility. So I tell you that so I can ask this question because the general council - I am supportive of everything you're doing. Believe me. I go back longer than Jimson does in dealing with this problem.

But my question is are we - is the BC setting up a separate legal entity and in that case what - under which state are we incorporating and who is - who are the - who are the board members of record because and those - because we - you will have to file other forms - believe me - not just tax returns but a

couple of other forms in order to maintain your nonprofit tax status. That's what your general council is going to do for you.

But whoever agrees to be on the board of the legal entity probably also needs to be clear they're acting in their individual capacity and they may need the legal indemnification.

Chris Wilson: This is Chris and that's a fair question. I will say I think at least we know to your first question, I think the intention is to incorporate as a nonprofit under the District of Columbia, Washington, DC and I'm not familiar with - other than that familiar with what the requirements are. It's a fair question and...

Marilyn Cade: I never intended to be as familiar as I am now.

Chris Wilson: Right. And that perhaps is something that we'll, you know, in consultation with our perspective general council he may yet come back and say, you know, you need to fix this because of that for those exact reasons. So, you know, this - just because we can tweak this the way we like it, there's no guarantee that obviously the perspective council would want to leave it like that.

So there may - so there's going to be perhaps some discussion between the parties figuring that out but it's a fair question and I guess once we - when we get further insight on that that we will have to deal with that but Jimson did you want to add anything?

Jimson Olufuye: Yes, thank you Chris and let me also appreciate (unintelligible) part of our life trying to help this. So well like - I just want to bring up an analogy. Whenever we go to the bank and want to open an account, you know, you have to say sign this indemnity and (unintelligible). So it's a normal regular so, you know, we experience every now and then. But what it doesn't mean - I've never come across the position whereby that has happened, if you keep within your operational framework.

So if that is the case then we have a process. That's why the charter issue is very important. We've qualified to stand as an officer and one of you and the requirements for transparency, for decision making, for capability and we wanted the (unintelligible). If that is well tightened, I think it's just basic in terms of, you know, indemnification basically.

But at the same time, you know, if you say okay yes, this (unintelligible) operate in good faith and what if you, you know, you can have this challenge and that is why Marilyn made a very valid point, you know. So well maybe we will leave it the way it is now you have recommended, send it to him and let's get what we have to say, you know, about that because he alone is the one that has I think the legal responsibility to the card access because obviously the whole idea is to be (unintelligible).

Marilyn Cade: Let me talk to you offline. You can't establish a not for profit status without becoming a legal entity. That's what you're trying to do. But if you're incorporating then somebody has to be on the board of directors or hold the director role. That is typically not your general council - that and so the other thing I would say to you is like I'm just going to use Wave as an example.

When we established Wave we had three directors and the directors appointed the board so they were - it was we were incorporating in New Hampshire. But I want to take this offline. What you're trying to do here is to establish the person who will act as the legal counsel. Your - our lawyer is not a general - Wave's lawyer is not there on retainer. They are indemnified. We buy insurance for them but Wave is a not for profit organization incorporated under US law.

If you're establishing a legal entity, somebody's going to have to be the director or directors.

Jimson Olufuye: Here the current BC officers (unintelligible).

Marilyn Cade: I'm not saying you can't do that but then you will have to - since you elect officers on a yearly basis, you would have to ask your - are you going to change your directors? I wouldn't advise that.

Jimson Olufuye: No but basically part of the deliverable is that every year you are responsible for filing all this documentation - necessary documentation to retain our status so if we have a change of officers then it regularly means that that's part of the changes we'll do.

Chris Wilson: Marie.

Marie Pattullo: Hi Chris. When we first - Marie from AIM - it's from my own understanding because American law state law is a total mystery to me. I get slightly nervous when I see the indemnification against the expenses and the fees or whatever. As Marilyn said, are we going to have legal insurance? Good, you're nodding because I have this vision of them coming for joint and several liability - the individual members of the Business Constituency - and with all due respect (unintelligible) and your country, I don't want to do that.

Chris Wilson: This is Chris. I can safely say that my employer wouldn't want that either so no, the understanding would be that we would get some insurance, yes. So why don't we do this? Let's - maybe with one - not right now with everyone but we can - the Excomm can have one more go round on that and make sure we go ahead and send it.

Taking Marilyn's point into consideration we'll have to, you know, in consultation with council we'll have to think about that issue - the issue of the board of directors and how we would structure that. So that's one more thing we'll have to think about. I mean ultimately my goal would be that we could finalize this by meeting the end of June. That may be ambitious but, you know, that's my hope that we can get this done soon.

And it, you know, it may impact obviously the consideration of our charter a little bit but I think that shouldn't stop us from considering the charter and vetting all of the other issues that may be part of that. But, you know, if we can get this done in the next two or three months at the latest, that would be great but it's something we're going to have to think about.

So my point is I guess we'll just leave it here, fish further thoughts or concerns. Andy did you have anything – Andy, did you have anything you wanted to add on? Okay. Thoughts or concerns about it but we - the Excomm will have one more I guess brief chat maybe about this in the next couple weeks I guess at our next BC call - after our next BC call and then we'll report back to the membership on where we stand so I think that's (unintelligible). Hopefully that'll make sense and, you know, we can send what we send to the council and then we'll engage in the discussion I'm sure with him and maybe that we want to revise this further but...

Jimson Olufuye: Yes we could actually get him to be on one of the Excomm calls so that we can have an introduction with him.

Chris Wilson: That's a good suggestion. Maybe we do that - we'll do that. Okay, thank you all. Marilyn, yes sorry.

Marilyn Cade: I have something under AOB and just a reminder, you haven't picked up your gala ticket, be sure you do that.

Chris Wilson: Yes and I believe the gala tickets are available at the information booth in the (unintelligible).

Marilyn Cade: Fantastic. My other question is - goes to this BOF thing that is happening and we talked about the possibility of canceling that. It's clear it's not going to be canceled. There are conflicts for many of you.

(Venalia) is solving a different problem than perhaps we miss - thought she was. I just wanted to know who else might be able to go to that BOF session. I'm going to go to it but mostly I hope to just learn about what problem it is that she's solving. I've been hearing what it is but it mostly seems to have to do with the tension between the NPOC and the ALAC and the lack of her representation. I think that's what it is but I'm going to go for informational purposes but I wondered who else might be able to go.

Chris Wilson: So can you remind us - this is Chris - can you remind us of the time tomorrow?

Marilyn Cade: Yes, it's spontaneously - so it's 5:15 to 6:30 and it's at the same time as identifier technology health indicators. The conferring with the CCT - the conferring with the competition, consumer trust and consumer choice review team and the ID implementation guideline session all at the same time as the BOF.

Chris Wilson: This is Chris. I'm happy to attend at least a portion of it - maybe the first 30 or 45 minutes of it and (unintelligible) again. So I can - I'm on the air. Okay well that's actually helpful because that's where we're going to be meeting (unintelligible).

(Sheba): This is (Sheba). I was planning on going to it as well.

Chris Wilson: Okay, great. So we'll have a few people on there. If others can pop in, that would be good too. So let's go ahead and move on then. Angie why don't you - if you could give us a little update - I have ten minutes or so on SCI. Thank you.

Angie Graves: Sure. Thank you. I am representative from BC to Standing Committee On Implementation Improvements. Lawrence here is alternate from the BC for the SCI and we are charged with taking GNSO council requests for Specific

Recommendations on Process and Procedure Items, especially with respect to issues that occur and are anticipated.

We - our most recent work has been with consideration of motions so for example one of our questions is must a motion presented at the council be seconded in order to be voted on and we decided after much deliberation yes, our sub team B meeting recently has been with respect to situations where terms for chairs and vice chairs have expired at the same time.

We have an issue in Dublin where we were left with no one to run the session so we've been deliberating that. We're continuing discussions on that and we've made great progress. If there's anybody who would like to know the specifics - they get very needy - we're happy to present that. We're also talking about timing of council chair and vice chair elections to avoid the show all together. And I think there is a calendar but I'm happy to end that unless anybody's got any questions.

Chris Wilson: Thank you. Any questions to bounce on that? Okay, just to say Angie thank you very much for taking on that role and Lawrence as well. I should say Lawrence is a relative newcomer now to the BC but thank you for jumping in on that right off the bat and we appreciate that very much. Good. Alright, well let's move quickly. Any other business for folks than they have?

I should just say at the next BC meeting will be tomorrow at noon. I'm thinking (unintelligible) room. It's a closed meeting from 12:00 to 1:30. That may be a good opportunity for us to close the loop on - well we may learn more. I guess we might learn more. Well tonight by six, yes. So we may have a better sense of what we may or may not need to do with regard to accountability by that time and, you know, we can assess the situation from there but any other thoughts people have?

Okay well then I'm giving you approximately an hour back of your time so thank you all for participating and hanging in there. Thank you for those that

participated remotely and we will - we will talk again tomorrow. Thank you.
You can stop the recording. Thanks.

END