

**Consumer Trust Meeting
TRANSCRIPTION
Tuesday 24 July 2012 at 19:00 UTC**

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[Http://audio.icann.org/gnso-cci-20120724-en.mp3](http://audio.icann.org/gnso-cci-20120724-en.mp3)

Participants on the Call:
Cheryl Langdon-Orr - ALAC
Michael Graham - IPC
John Berard - BC

ICANN Staff:
Julie Hedlund
Berry Cobb
Nathalie Peregrine

Apology:
Jonathan Zuck – IPC (warned would join late, call closed early)
Carlos Aguirre – NCA
Oliver Crépin-Leblond – ALAC
Steve DelBianco - CBUC
Tobias Mahler –

Coordinator: I'd like to remind all participants this conference is being recorded. If you have any objections you may disconnect at this time. You may begin.

Nathalie Peregrine: Thank you very much, (Kelly). Good morning, good afternoon, good evening. This is the CCI call on the 24th of July, 2012. On the call today we have Cheryl Langdon-Orr, Michael Graham and John Berard. Jonathan Zuck will be joining us later. We have apologies from Carlos Aguirre, Olivier Crépin-LeBlond, Tobias Mahler and Steve DelBianco.

From staff we have Berry Cobb, Julie Hedlund and myself, Nathalie Peregrine.

I would like to remind you all to please state your names before speaking for transcription purposes. Thank you very much and over to you.

Berry Cobb: This is Berry. Thank you, Nathalie. So as I mentioned before the recording started we've got a pretty thin crowd today and we'll address that here in a few minutes.

In the meantime while we're waiting for maybe one or two others to join we've got a couple administrative things that we can discuss then we'll kind of move over into the public comments.

So first and foremost the agenda basically we've done the roll call. We're going to review the open action items which we have four of them listed. The first one Jonathan Zuck was going to reach out to Wendy Seltzer about her - about her statement that she had sent out to the list with respect to some of the consumer trust metrics.

I've not seen - I wasn't copied on anything if there was some dialogue between them but I'll follow up with Jonathan if he doesn't join in time to make sure that hopefully we can get Wendy or some representative from their group for the 31st call.

The second action item is myself, which is recurring, and that's basically deploy the latest comment review tool and draft letter each week after we review - or after we review the day's session. I do apologize to the team for late submission of the comment tool last night but I had to go through and listen to the MP3 to make sure I accurately captured the deliberations and the actions from those.

Third one which is complete and that was just to announce to the GNSO Council that we've had a chair replacement which is Jonathan Zuck. And then lastly is an open action item and that is for me to investigate with ICANN internal as to who's leading the Affirmation of Commitments Application Review Team segment.

If the working group recalls on the last session there's a clear delineation between what this working group is tasked with developing metrics to determine the success of the gTLD program versus some of the application processes itself that will be under review for future rounds. So there was some input from the community that we thought would be good that we pass over to that review team so I'm still investing that.

Lastly I'll talk about the remaining working group schedule. Of course we've got the 31st next Tuesday listed and then August 2 - I'm sorry, August 7 as hopefully our last meeting; if we don't get very far with the public comments review today that may carry over into August 15. But we are finally getting close to the end of reviewing the public comments.

Once we do reach the end there are a couple of other action items within the public comment review tool that we'll want to review. Mostly it's just gain clarification for some of the proposed changes to the advice letter and make sure that we've captured those accurately in the next version.

Then of course once we've wrapped up the review of the comments and I've transferred all of the proposed changes into the latest version then I suggest that we probably have, you know, at least a good hour to sit together as a working group and review top to bottom of all of those changes that have been made then do a final distribution out to the list to receive any last minute feedback.

Once we are happy with that then we'll package up the final advice letter, pass that over to John Berard, which will then deliver it to the GNSO Council.

So at the - hopefully at the very latest by mid August we can get that submitted to the Council.

I'd like to point out with respect to how the Council will deliberate the advice letter is kind of fuzzy at this point in time. Certainly there's a...

((Crosstalk))

Berry Cobb: Certainly there's a backlog of actions that the Council needs to review and deliberate on. So of course, A, they're going to need time to digest the contents of the advice letter as well as deliberate it through the Council meeting.

The issue with that is we're basically coinciding with the popular vacation timeframe of the year so there's only two scheduled GNSO Council meetings before Toronto. Hopefully by the - I think it's the September meeting we'll be able to try to get this on the agenda for that September meeting for the Council to review.

And if we're lucky then perhaps the Council will be able to go ahead and forward that letter over to the ICANN Board. But again it's pretty loose right now as to exactly how long the Council will take to deliberate this. Certainly a few of the stakeholders may have some additional input into the advice letter itself and specifically with some of the metrics.

So any questions up to this point? Okay.

Well like I've mentioned we've got a pretty thin crowd today for reviewing the public comments. Certainly probably our A-list players are the ones that have sent their apologies so I'm kind of inclined to not necessarily go into new comments until we have everybody back together...

Cheryl Langdon-Orr: Yes.

Berry Cobb: ...but at the same time we do have representation from those parties - from the groups that would normally be participating such as ALAC or the BC, IPC. So I'll leave it up to the working group as to how - if you feel that we do have quorum to move forward with some of the comments we're more than happy to do that. Else we may have to punt to next week.

John Berard: Berry, this is John. The workload - if we can get this thing done by the middle of August then we can clearly get it on the Council's agenda for September. If we punt today does that mean that we're not - that there's going to have be - that we'll have to reschedule this meeting at a time when more people can participate or do you think we'll be able to get everything done in the two meetings remaining?

Berry Cobb: That's a very good question, John. Actually we would have three meetings to wrap everything up if we targeted the 15-August delivery date. There wouldn't be a reschedule of this meeting; we would just basically - we already have a meeting scheduled for next Tuesday to continue to move forward.

If - I'm not sure of everybody's schedule but if it was acceptable to the working group we could even try going for a three-hour session next Tuesday just to try to wrap things up and then that would give us at least a meeting and a half to sit down and just review the advice letter and get out of this overly large comment review tool.

John Berard: This is John again. I don't think I would move to a three-hour session.

Berry Cobb: Well - this is Berry. Definitely even if we don't get very far today that's three two-hour sessions up to the 15th of August.

Cheryl Langdon-Orr: Yeah. I don't think we have critical mass. This is Cheryl here. I think, you know, we are a bit thin on the ground.

Berry Cobb: Okay, understood. Well just to...

John Berard: Again this is - if we believe that, Cheryl - Michael, I'd like you to chime in on that as well. If we agree that in this case thin is bad then I would suggest we just postpone this until our meeting on Tuesday.

Cheryl Langdon-Orr: Yeah, just make next week, yeah.

John Berard: Yeah.

Berry Cobb: Correct. Most certainly the competition areas that we need to review are - I don't think contentious is the right word but certainly there's a considerable amount of deliberation that needs to occur within the working group to get through some of these final metrics.

So it sounds like there's agreement to postpone review of the comments until next week. I'll send out an email to that effect. However I think that we can get one little action item reviewed through that doesn't require a quorum here but more a sanity check on an action item that I have if that's acceptable.

Cheryl Langdon-Orr: Sure.

John Berard: Okay.

Berry Cobb: What you see before you on the Adobe Connect session - except you, Cheryl - the...

Cheryl Langdon-Orr: Yeah, because I'm having a devil of a job getting enough - I had connectivity issues overnight and it's not any better now. Sorry about that but.

Berry Cobb: No worries. If you have the Word document open in front of you basically...

Cheryl Langdon-Orr: Yeah, I've got the hard copy.

Berry Cobb: ...yeah go to the very last page and then scroll up probably a page and a half and you'll see a comment to the side. Essentially what we're looking at here this is the - basically the table that Steve DelBianco had used to review through some of the USG comments or specifically some of the proposed metrics that they had included in their comments.

Most of which the working group has deliberated on and those areas there was a change needed those have been incorporated into the latest version of the advice letter.

However there was one action item for me - and I had neglected to put it on the action item list but I finally got it reviewed. One of the suggestions from the USG was to expand one of our metrics about the quantity and relative incidence of breach notices.

I think most specifically the USG was looking to incorporate where executive officers of registries would either be suspended or terminated related to the legal misconduct of those officers for not only the new gTLDs but existing gTLDs.

As it turns out I met with Legal late last week and in the working group response section you'll see about halfway through there's a date stamp of 22-July.

In essence what Legal has mentioned is that there's already provisions in the existing and the proposed registry agreement about misconduct of the corporate officers more specifically to do with their fiduciary responsibilities however there's also language for other felonies.

So in addition to one of the officers filing personal bankruptcy or if they decided to beat somebody up and they got assault and battery pretty much there's a large spectrum where ICANN does have the enforcement capability

for sending a breach notice if one of those events were likely to occur or if they did occur.

But what was very specific from the ICANN legal team is that there is no delineation of a breach notice with this respect. So to try to simplify it in an example I'm the CEO of Registry ABC or XYZ I should use. And I declared bankruptcy and ICANN received notice of that. They would send the Registry XYZ a breach notice stating for the misconduct and lack of fiduciary responsibility but it would be a breach notice; it would not be as specific as a termination or a suspension in detail like that.

So basically what I'm suggesting here - and I also included the text from the registry agreement in through here. I'll un-sync so people can navigate on their own. But basically there is Section D and Section F, about 2/3 of the way down in the registry agreement. And I've underlined some of the more relevant - jeez, I can't talk today - the more relevant provisions that relate to these types of possible breaches.

So what I'm suggesting here is that I think we're actually covered from the working group perspective with our current metric as defined under consumer choice. And that's just the relevant incidence of breach notices issued to registry operators for contract or policy compliance matters.

I don't think that it warrants us to go into details of how the USG has outlined to say suspensions and terminations and those kinds of things. And the last statement I'll say is when a breach notice is delivered from ICANN certainly the ICANN compliance team will have categories based on those breach notices.

So when we retroactively go back and review the notices and breach notices we will have the details to say well these sets of breach notices were for not paying your fees; these sets of breach notices were lack of fiduciary responsibility types issues and those kinds of things.

So unless anybody has any comments I was just going to suggest that we close out this action item basically stating...

Cheryl Langdon-Orr: Yeah.

Berry Cobb: ...that we've got the metric here and that should satisfy the...

Cheryl Langdon-Orr: Yeah, it is covered.

((Crosstalk))

Berry Cobb: Anybody else have any other comments with respect to this?

John Berard: No it certainly seems (to be).

Michael Graham: This is Michael. It looks like it's covered based on that, Berry.

Cheryl Langdon-Orr: Yeah. Works for me.

Berry Cobb: Okay great. All righty that was really the only action item that I wanted to kind of close out way down here at the bottom. And then just to kind of give us a refresher so we know where to pick up on our next meeting is starting with Item Number 60 which again is in the competition metrics.

And if you recall I think there's a total of 73 so we've got 13 more comments to review through three of which are more general comments. And I believe that we'll be able to fly through those pretty quickly.

Okay so with that said in terms of - does anybody have any other items they wish to bring up with the group? And if not then I think we'll go ahead and adjourn for the day and we'll meet same (bat) time, same (bat) channel next Tuesday.

((Crosstalk))

Cheryl Langdon-Orr: ...you got that from.

John Berard: This is John. The one thing that I might suggest to your point about the Council being fuzzy on how it's going to deal with this wouldn't we be wise to include in the advice letter our sense of what the process is, perhaps some kind of flow chart that indicates what has to happen and maybe even when?

Berry Cobb: This is Berry. Certainly based on other outputs from working groups there was - there is a tendency that when something does approach the Council that it doesn't have enough of a - or enough information with respect on how the Council would implement it or move forward from there so that might be a pretty good recommendation.

And to be quite honest I personally don't know the exact process. You know, once the Council does start to deliberate it is there a possibility that multiple stakeholders could not agree with the entirety of the letter and ask it to go back to the working group to figure out or to change. Hopefully that's an unlikely scenario but I wouldn't remove it off the table.

John Berard: No, no, no this is John again. I certainly think that that's a, you know, I would - if I had a few extra bucks laying around the house I'd probably bet on that. But it might be helpful in putting together a flow chart - while not a mandatory end point the optimal end point for the discussion, right? But at least it puts a timeframe on the modifications that could be made, you know, the back and forth.

I mean, as long as we're fixed on - sort of kind of fixed on when we need to be done then we can accommodate some of that back and forth as long as everybody knows that we have a date that we're shooting for.

Berry Cobb: Very good. I'll...

((Crosstalk))

John Berard: I realize that I, you know, I'm probably - I'm suggesting all this because as I sit on the Council I sometimes think that, you know, we lose sight of the fact that what we're doing today has implications for when things will get done down the road. And I'd love for this to come in with a suggestion as to when that down the road might be and perhaps put some element of a flowchart together so that could help guide the deliberation; not dictate terms but just guide the deliberation.

Berry Cobb: This is Berry. Understood. I'll put together a first draft to send out to the working group. You know, from our last presentation in Prague we did - we do have a timeline chart certainly showing the beginning to end of the entire metrics program.

But maybe it does warrant flushing out the details of that one little bar that says ICANN Board deliberations basically through the end of the year. And so basically I'll just kind of outline some of the key milestones and approximate dates and then package that up and we can review it at our next meeting.

John Berard: Cool, that'd be great. Thanks, Berry.

Cheryl Langdon-Orr: Excellent.

Berry Cobb: Okay any final thoughts, gripes, complaints?

Cheryl Langdon-Orr: Only that it's only 5:30 and...

((Crosstalk))

Berry Cobb: All right well I thank you everyone for your time and...

Cheryl Langdon-Orr: Thanks, Berry.

Berry Cobb: ...I'll see you next Tuesday.

Cheryl Langdon-Orr: Okay thanks. Bye.

END