ICANN67 | Virtual Community Forum – GNSO - BC Meeting
Tuesday, March 10, 2020 – 15:15 to 17:00 CUN

TERRI AGNEW:	Please remember to state your name before speaking and please keep your phones and microphones on mute when not speaking to avoid any background noise. With this, I'll turn it back over to our chair, Claudia Selli. Please begin.
CLAUDIA SELLI:	Thank you very much, everybody, for attending the BC open meeting. This is the classical open meeting that we would have had also in Cancun and in other premises physically. So just be mindful of that it's not a normal call but an open meeting.
	I'm really happy to see good participation, so thank you for being there, and I hope you will engage as well in discussion and debate. With that, it's a new experience for everybody so I hope it will run smoothly.
	I will then go to our agenda that you have in front of you. We will start with the policy discussion followed by the GNSO council update, finance and operation, and then we will have also a guest speaker, being Jamie Hedlund, to discuss Compliance. And then if any members want to raise Any Other Business, we are open for that.

But without further ado, I will turn the floor over to Steve DelBianco to start with the policy discussion. Steve, the floor is yours.

STEVE DELBIANCO: Thank you, Claudia, and I'm going to now share the policy calendar which is distributed to BC members. For guests who are attending this open BC meeting, as in all situations, since you're online it'll be easier for you to raise a question if you wish in the chat. You can comment on something and maybe ask for clarifications, because the BC is pretty big on the use of ICANN-appropriate acronyms and abbreviations that could be really confusing. So rather than wait until the end and raise your hand, I would say that newcomers, particularly potential new BC members, should introduce themselves and ask their question in the chat in Zoom, and we'll do our best to address it right away.

With regard to the policy calendar, since we last met two weeks ago, the BC has not filed any new public comments, but the second one in the list I've highlighted in yellow because I do want you to be ready to discuss this topic when at 5:20 Eastern time, 4:20 Cancun time, we're going to be having Jamie Hedlund from ICANN join us.

And during that discussion with Jamie, we want to deep dive into a few elements of ICANN's response, the extensive reply that I'm pointing to here, the response to the BC's letter regarding DNS abuse.

All right, so let me move on to the open public comments. There are six open public comments right now, and the first one I wanted to

discuss is the BC's response on security, stability and resiliency-or the SSR2 review team.

We're lucky enough to have Denise Michel and Scott McCormick as BC members who are on that team—and Denise is a co-chair—and we're lucky enough that Susan, Roger, Mason, Ben and Kileo drafted a BC comment that was ready to go, ready to review well in advance, because ICANN has extended the closing period to March the 20th.

That means that you've all had the report in your hands for two weeks and haven't asked too many questions. I'm going to display it now for the simple reason that I'd like to see if the BC could agree today to put this in. The reason we would do it now is that the chairs of the SSR2 are anxious to begin work, particularly because they'd allocated so much time to work on their project this week. They've allocated time to do that, and if the BC comment has gone through its two weeks of review and we have no further comments from BC members, I'd like to get it in today.

So I have it up on the screen, and it's the first attachment to the policy calendar that I circulated yesterday, and it's got 31 recommendations from the SSR2 review team. And the BC, thanks to the work, again, from Susan, Roger, Mason, Ben and Kileo, the BC responded to each and every run.

But in the beginning, they've drafted some overarching comments that keyed off to something we'd discussed multiple times, is that a community-driven view like the previous SSR should have seen all of its recommendations, which were approved by the board, should have

seen them all implemented. And our contention along with the review team is that they are not. There's been a deficiency in that.

So we lay that out here in the first couple of pages, we continue to hammer on the linkage to DNS abuse, community oversight as well, and then we get into the specifics of the table. In this table, each and every recommendation is given a recommended owner and a priority, and then we add our comment. There's not as much to read in the table as there was in those first two and a half pages.

So with that, I'll say that Mason, Susan, Roger, Ben or Kileo, is there anything you'd like to add or are there any BC members—I'll look for hands—who have specific concerns about putting this in tonight even though it's not due until the 20th of March? I'll take a queue.

Members of the review team who drafted this, don't hesitate to just raise your hand and speak up. Mason, go ahead, please.

MASON COLE: Thanks, Steve. Don't have a lot to add, I think you summarized the comment very well. I think it's ready to go, so if BC members can get on board with comment today, I'm in favor of submitting.

STEVE DELBIANCO: Thanks, Mason. Any BC member who wants another 24 hours to read it in detail or anything else? You've had two weeks, so we're well within our limit and we were prepared to submit it the other day when it was due, but ICANN just simply bumped out the comment period. Okay,

I'm going to take that as good to go, and we'll submit it tonight. I hope that's good news to you, Denise and Scott.

All right, I'm going to return to the policy calendar in the Zoom room. So that was the first one right here, we just covered it. The second one is the initial report on phase two of the expedited policy development process for registration data. Those comments close about two weeks from now, on the 23rd of March.

Mark Svancarek and Margie Milam represent the BC on that EPDP, and we have a whole detail in our policy calendar about what's going on there. We last commented about a year ago, April of 2019, and then again we commented on the technical study group or TSG.

I want to give a big thank you to Mason Cole and Drew Bennett who prepared an initial draft BC comment just the other day. It's attachment two to the policy calendar. I've also moved it into a Google doc to record comments from BC members. and then as our drafters, Mason and Drew will review and approve those comments and will distill them down into something that we can post on the 23rd of March.

So this would be a great opportunity, Mason and Drew, if you want to walk us through any particular elements of that, I'll display that, or we can take general comments right now. Any questions for the drafters? It's a very detailed and long document. So far, Marie Pattullo has been the first one to comment on it. Thanks, Marie, for jumping in and doing that.

Okay, I don't see any other hands, so we have two weeks. We're going to continue to need to work that. I've included both the Word doc and the Google doc. It would be better if everybody used the Google doc so that you'll each see the comments provided by your colleagues. You'll even be able to see as Mason and Drew resolve the comments. If you do it in the old-fashioned way with the Microsoft Word doc, it's going to be more challenging. But I do understand that not all of you use Google Docs at your enterprise, and if that's the case, use the Word doc and just do it relatively early.

Okay, let me move on to the third one. The third one is the draft proposal for the NextGen program at ICANN. Those comments close at the end of March. Now, in September of last fall, Mark Datyslgeld led us by drafting a BC comment on the NextGen consultation. And Mark, thank you again for doing that and for volunteering to do another comment. So much appreciate that. It was circulated two days ago by you, and I appreciate that. Short and sweet comment.

And I followed up with Mark asking whether ICANN had implemented many of the BC's recommendations from the September draft. So Mark, this would be a good chance for you to talk us through the things you have in that draft since we have everybody on the line. Mark?

MARK DATYSGELD: Thank you, Steve. So what happened there was that before, ICANN was trying to do this in the same way they did the fellowship, which was sort of impose a particular vision and run with it.

In our previous comment, what was argued was that this won't work, this is a very different program, it's much more directed towards the academic community and young people and it can't be run in the same way.

So what ended up happening was that there's a lot more distinction now. There's a lot more nuance in terms of who this project is supposed to be geared towards. So starting from this reform, what I'm thinking is we'll see a lot more opportunities.

And I say this because we emphasize a lot with them the necessity to bring in people from business programs and from business schools, and people that we can actually use in our constituency. And they went as far as in this draft to include this particular language, people from business schools. It's there.

So I would say that the CSG overall, we've had a lot of input from the IPC, had a very big impact. We will see more people from business schools, or at least an attempt to bring them in, and the project will now be more focused.

An important thing is that they will be doing, as with the fellows, a mentor program, and it'll work a little bit different. So we'll be able to nominate a person for that position but not necessarily one who's from the BC. We could maybe see a bright up and coming person and put them in that position, for example.

And as far as the Nominating Committee is concerned, we also obtained what I think is a significant step, which is that we won't be

able to force a split in the GNSO where we have to put just one person. We'll be able to get one person from the NCSG, one from the CSG and one from the contracted parties. So I think that's a win as well. I would summarize it that way.

In terms of procedure, I think we won and we won in terms of language. I would consider overall that we had a great success on this one. Thank you, Steve.

STEVE DELBIANCO: Mark, thanks again. And I note that some of the comments that you've drafted for this round indicated a need to measure the participation of these NextGen participants while they're in the program as opposed to waiting until they leave to figure out whether they're contributing. I thought that was a great suggestion as well. So everyone, we have until the end of March to review Mark's suggestions. I realize only a few of you even participated or were aware of the NextGen program, but we're lucky in the BC that we've got somebody that has. Any questions for Mark?

Okay, next one, the name collision analysis project is a project that grew out of the first round of gTLD expansion where some of the new gTLDs that were proposed actually created collision with function calls done on networks, things like .office, .home, and ICANN had instituted a policy to mitigate the risks of collisions, including walling off a couple off gTLD names.

Now, in the years that have passed since, the SSAC had come up with analyses that they've done, including an outside study which talks about the risks of collisions, prior work that was done at ICANN, and it's been eight years but the BC was very active on this years ago, as recently as April of 2018, and Stephanie Duchesneau did that comment for us.

Stephanie with Google has moved on to different responsibilities within Google and so is not on the line with us to help this time around. This is a relatively easy lift for people with technical background who'll understand the potential downside of what collisions do to an enterprise, corporate network, but at the same time understanding that risk mitigation might be the right strategy.

Can I get a volunteer from the BC with technical background—don't have to be a lawyer for this one—to look at this report and help the BC prepare comments? This is not due until the end of the month. So I'm looking in both the chat and for raised hands or checkmarks. Somebody with a technical background on function calls and API calls that could involve names that collide with gTLD names. Do we have anyone who wants to get involved?

All right, I will ask again at the next call. The next one up is a strategy for a region that comes together. This one's for the middle east and the adjoining countries of that region, and it's a five-year strategy document published by ICANN and we commented on the last strategy which was four years ago thanks to the help from Lawrence Olawale-Roberts and Andy Mack.

I need to see whether we can get some volunteers from the BC to analyze this new middle east strategy and comment on it. This is a perfect opportunity for a BC member who's relatively familiar with what goes on in the Middle East. Lawrence, I see you've volunteered to work again on it this year. Thank you.

Anyone else who wishes to help? Let's do April the 3rd, Lawrence, and I'll work with you at getting that draft circulated based on what you and Andrew wrote last time too.

All right, thank you. The next one up, the final one to look at is the revised guidelines from ICANN on community travel support. That's not due until 13th of April, and we already have a volunteer, Jimson. Thank you for that, Jimson. You're an expert on managing that, and I know that you've given recommendations with respect to how ICANN handles visas and wire transfers, and I do hope that those are reflected by the new guidelines.

Any other volunteers that would assist Jimson on that analysis? It's another one of these light lifts that's ideal for a new BC member, particularly one who does travel. Lawrence, thank you. Okay, so Mark Datysgeld and Lawrence will be helping you, Jimson. Thank you. All right, and Arinola for the same one? Okay.

All right, so now let me turn to an ongoing saga inside of ICANN that is of high importance to the Business Constituency since we want to ensure that registrants and users in the Business Constituency have assurances that they can track down and prevent fraud that occurs.

That puts the BC squarely in the middle of this EPDP, this expedited PDP to develop replacements for WHOIS in a post-GDPR world.

We are blessed to have Mark Svancarek and Margie Milam leading us on that effort, a handful of other BC members are very active. Alex Deacon among them, I'm your alternate, Statton Hammock. And we work hard at assisting them on that area, but I'd like to turn to Mark and Margie to summarize the current state of play. And don't just focus on phase two. Remember the phase one implementation, particularly Rec 18 are all things that the BC was counting on, and the implementation of phase one has been less than we had hoped for. So Mark or Margie, please.

MARK SVANCAREK: Margie, could you go first? You always do it better than me.

MARGIE MILAM: Sure. Hi, everyone. Where do we begin? The EPDP, as was mentioned, we filed our initial report for phase two right before the ICANN meeting, and it's really great to see all the work on the BC to submit comments.

What we've been focusing on since the publication of the initial report is things that I think are near and dear to all of you in the BC. It's really trying to ensure that the model that was proposed supports a sufficient amount of automation.

And just to give you guys an overview of what the report says, originally we were trying to go for a centralized disclosure model where ICANN would be receiving the requests and making the response decisions. But because there isn't legal certainty and ICANN did not get the input from the data protection board that it was seeking—although that's still pending—the contracted parties came back and said, "Look, we don't have the legal certainty so let's go and move towards what we call a hybrid model."

So what you actually see in the report is essentially an enhanced ticketing system, and I'll take that phrase from Steve DelBianco who accurately describes what it is. It's an intake portal where there would be accredited entities that would submit requests, but then the decisions get pushed down to the contracted parties, to the registrars and registries, to decide whether or not they would like to disclose the information based on the policy.

And that's really the problem, I think, yet we have seen some movement in certain areas. For example, we do have a purpose that relates to cybersecurity and intellectual property. But at the end of the day, the real accountability issues are hard to really grasp here because we have for example service level agreements that relate to how quickly there'll be a response, but you may end up in a situation where your response is no. So there's no real SLAs related to disclosure in key areas.

So what Mark has been focused on and trying to get more agreement across the group relates to whether or not there are more cases for

automation. And to give you an example, the current proposal has only two areas where there would be automated disclosures. One would be where a UDRP is filed and the UDRP provider or URS provider would have automated access o to the contact information, and then the other one is the scenario where law enforcement is seeking WHOIS information from an in-jurisdiction registrar. In other words, for example, a US law enforcement submitting a request to a US registrar. And that's it, there's no other automation that's currently contemplated, although there is a mechanism to update cases that could be automated in the future.

And that's, I think, some of the areas where we've focused some of the public comment in the sense that there would be a mechanism to say, "Okay, we've got these two cases of automation but we think it should be expanded based upon how the law develops and what kind of clarity there might be in the future."

So that's where we've been putting our efforts in the last few weeks, and Mark's taken the lead on identifying areas where there could be automation. And in particular, because we see the current policy is even going beyond what is required by GDPR, some of the automated cases we've proposed addressed some of those areas, like for example if the record relates to a legal entity.

We all know that GDPR protects the information of natural persons but not legal persons, and so in our view that might be a scenario where you would have automated disclosure, and that's one area that we're exploring.

Another one is trademark infringement. If the string includes a registered trademark that is in the trademark clearinghouse, we feel that that could be another area where there would be automated disclosures. But in both of those scenarios, we do not have agreement at this point.

So that's kind of the crux of it. I think at this point there's certainly areas where we have made some progress, but at the end of the day when I look at it, I just don't see that with these limited automated areas, that it's a significant improvement from the current state. And I really think that some of the problems we see today where there's just no access for legitimate documented requests will continue because the decision is going to be at the contracted parties and there's really no mechanism for ICANN to enforce, even in these scenarios where it's phishing or trademark abuse that's clear cut, it doesn't seem that policy gives enough teeth to ICANN to be able to enforce disclosure in those scenarios.

So with that, I'll pause and see if Mark agrees or has additional clarifications.

STEVE DELBIANCO: Margie and Mark, both of you keep an eye on the chat. Barbara Wanner has put a question in there that either of you could handle. Thank you.

MARGIE MILAM: Sure. I think I can answer the question about PPSAI. One of the areas— and we heard this with our conversation with the board earlier today— is that the implementation of the new privacy proxy policy has been on hold for three plus years, and ICANN Org has been telling us that they're waiting for the EPDP to do more work with respect to privacy proxy issues.

And today, what we agreed on was that there was one recommendation that relates to whether the information of a proxy provider is to be public, and this is the actual service provider, not the customers of the privacy proxy service. And we agreed that that information should not be redacted, and we also agreed that we are not going to do any additional work related to privacy or proxy services.

So in our view, that means that now the explanation that ICANN Org has been giving that they're waiting for the EPDP no longer applies and that we should push ICANN Org to resume the implementation of the privacy proxy policy.

STEVE DELBIANCO: Mark, let's turn to you for an update. Go ahead.

MARK SVANCAREK: Okay. Yes, I agree with everything that Margie said, of course. I guess my additional comments would be that we're not going to wind up in a place that is substantially better. I do want to focus on positive things, like this gateway will provide two functions. One, it will provide

objective statistics so we can all agree on what actually happened, which is a situation we do not have today. What we do is we generate some stats and then they generate some stats, and at that point it's all just reduced to anecdotes and nobody can really compare apples to apples.

So a gateway, if properly created and made transparently, will help that system a lot. So I'm looking and expecting to get pushback from the contracted parties for making a system that actually generates objective statistics which are then shared in a transparent way. So that's something that we're going to need to fight for, because accountability arises from that. Similarly with the SLAs, the SLAs are going to be based on those statistics, so it's the same sort of thing.

Regarding the automation, as Margie said, we're really only looking at those two scenarios. There is another scenario which somebody has mentioned about legal persons versus natural persons. What I'm proposing is that if you know that it's a legal person and it's already been disclosed, which is how you know that it's a legal person, then you should be flagged for automatic disclosure.

And even that, which is very obvious, that did not get consensus right away, so we're going to go back and push on that a little harder. But if we can't get consensus on that one, which is basically a function of the gateway sending a recommendation, and just saying if you received a recommendation that looks like this, we know that it's a legal person, you've already disclosed it, none of the record has changed, if we can't get agreement on that basic one, then we're really sending a message

that this is not a problem that could be resolved within multi-stakeholderism and there's no interest in creating a useful system.

And I've already given feedback to my management, to Julie Brill, that we're not going to be able to do cybersecurity with what's going to come out of this. So we're working through this process in good faith and we'll see what we get in six to eight weeks. But I will admit to you I don't have very high hopes at all.

So the gateway is a great step forward for accountability and transparency, but all the rest of it really is not a step forward. Thanks.

STEVE DELBIANCO: Mark, thank you. To clarify things on this legal versus natural person, if a BC member became aware of a website that was attempting to defraud legitimate clients of a bank and it's clear that it's a legal entity because it's a business, at that point, does that open the door to the legal entity, or do we suggest that the underlying registrant's name must be a legal entity and that we must have actual knowledge of that before we can play that card?

MARK SVANCAREK: That is the position of the contracted parties, is that there might be personal information in that record. You don't know if that website is actually a person or a business is what they say. So no, they do not agree that that would be automated without—they require a human review.

And keep in mind that they're saying that anything that's based on legitimate intertest requires a human review, which is not actually what the regulation requires. But that is the position that they're coming from, which gives you an indication of just how intransigent they are on this topic.

So even though that seems very logical to you, they haven to embrace that logic.

STEVE DELBIANCO: All right. Mark and Margie, thank you so much for fighting this battle week in, week out, multiple times per week with prep calls in-between. Thank you both.

All right, I'm going to scroll ahead to the GNSO council, which we call channel two of the policy calendar, and turn things over to Marie Pattullo. Scott McCormick is our other councilor, who I believe is traveling. I'm not sure if Scott has joined us yet. I don't think he has. So Marie, it's over to you for channel two. It's on the screen.

MARIE PATTULLO: Thanks so much, Steve. Yes, Scott is traveling. We're not going to take 20 minutes to discuss this. You know that we have a council meeting tomorrow, you know that we have no votes, so either discussion votes or votes that just go through by consensus. There is nothing. It's all about debate tomorrow. Please do try to listen in. It's always so helpful for Scott and for me that we have your views and particularly when we're discussing live issues.

The only things I would like to raise, Steve has kindly put into the calendar already, and I've sent you guys a couple of e-mails on both of them today . One of them sounds dry. It's the GNSO work prioritization. It is dry, apart from the fact that if we don't get our issues front and center into that priority list, they will not happen.

So you'll see [inaudible] I sent to you earlier based on the members who'd replied to me as to the issues you think are the most important. The caveat to that is not [the everything about ICANN issue I think is important,] it is the issue you think that the council could deal with that's important.

So please have a look at that, have a think about it, let us know. You know that this also doesn't fold into but is connected to the whole strategic review that's underway within ICANN itself on which, as you also know, or you will when you open your e-mails, council has a separate session next week. Again, please do let me have [inaudible] input for that [so we get these issues out there.]

The second one ties more to the discussion we were just having about the EPDP. Now, for those of you who are not as familiar with this, there has been a very bizarre debate about access to data without anyone caring that that data was accurate.

The BC has a very radical position. We think that data should be accurate. This was raised in the EPDP, and here I defer to both Mark and Margie, but for a short background, and it was deflected, and then when it was raised in council, it was pushback against us that accuracy had nothing to do with the EPDP.

Now, here I speak personally as well as your councilor, I think that is insane. I do not understand why anybody wants to promote a system knowing the data is inaccurate.

Keith Drazek, who's the chair of the council, has put this back onto the agenda because we've had correspondence with Göran, the CEO. The link is right there in the chat, Steve put that there for you.

So what we would really like from you is some—apart from saying what I just said, some actual wording that we can use to convince our colleagues, both within the CSG and in the rest of the council, that accurate data should actually be important. Steve, I'll turn it back to you.

STEVE DELBIANCO: Thank you, Marie. Appreciate all you do on council. BC members, this is a great chance to offer some insights or suggested wording to Marie. Looking for hands. Any questions for Marie on council in general? Great. Thank you, Marie. Appreciate it.

I only have two other items underneath council. There were two review teams underway. We've discussed both of these before, but the SSR2 team. and Denise is now on the call with us. Denise, you're waiting on comments to come in, and earlier on this call, the BC agreed to get you our comment early, so we should get that up to you tonight.

I wanted to give the floor for you and to Tola if you want to give your colleagues any particular point on the current status of SSR2 or

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ATRT3. Denise, you first, and then Tola. Denise, I'd seen you in the Zoom. Are you interested in commenting on this? All right, over to you, Tola, for ATRT3. Go ahead, Tola.

ADETOLA SOGBESAN: Okay. Greetings to everybody. We've been having a few issues about wrapping up with our assignment. [The statutes, we're] supposed to [have a report] by March. That's a couple of weeks now, but unfortunately, because we couldn't make Cancun for our final face-to-face meeting, it brought a challenge of how we are to ratify the final [aspect] of our document.

The report is almost ready, we're about 90%, but we needed to have the final face-to-face meeting to conclude the report. So we had requested—we agreed at the last meeting, the 54th meeting we had last week, and the condition was to send a letter to the board requesting for an extension.

We had three options. We eventually picked the second one. The first option was to request for two months more to conclude before ICANN68. The second option was for us to request for three months extension, and the third option was for us to submit what we have as it is. And we [thought to request an] extension.

Eventually, we put it to vote. We ended up having option two, which his to request the board to give us three months extension within which we hope there'll be [free] travel and we'll be able to have face-

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to-face meeting and have final discussion on the final report. That is where we are at the moment.

Otherwise, every other thing—okay, one other issue that took a bit of discussion is prioritization. We've not been able to conclude on [inaudible] from the public comment, we've not been able to conclude on what we'll finalize on, and we're still battling with that. We have our next meeting [inaudible] and from there, we will take final step. That's all we have to say for now. Thank you.

STEVE DELBIANCO: Thanks, Tola. I know you guys have already analyzed most of the public comments that came in. Can you give us some sense of where the majority of the public comments go with respect to the different alternatives you offered on the specific review?

ADETOLA SOGBESAN: Majority of the public comments [inaudible] BC submitted. We had most of—except a few, we had a few [inaudible] ALAC, [inaudible] towards ALAC is not in tune with most of what every other person are submitting. But review is causing a lot of issues. And what is causing the issue is yes, the large chunk of public comments trend towards having two years, three years, five years single review. What particular duration varies. Some suggested two, some suggested three, some suggested seven, and that is causing a lot of issues. And we had concluded that we have the final wrap on it in next meeting. We seem to have a dissent from KC and in our review we're likely to have both

recommendations and minority [reports] on the recommendation for review.

We're likely to have two of our members that feel we need to submit a [inaudible]. And KC had volunteered to submit a minority position on the review.

STEVE DELBIANCO: So you think you will have a consensus recommendation.

ADETOLA SOGBESAN: We don't have—no, on reviews specifically we don't have consensus. And KC—

STEVE DELBIANCO: No? Okay. Well, you can imagine that if you lack consensus at the review team, it is extremely challenging to expect the ICANN board and Org to approve the recommendations, so you should not presume that any recommendations that lack your consensus are going to get through.

ADETOLA SOGBESAN: So that means the recommendation or reviews—so my thinking is the challenge actually being how do we ensure the review—now, this is [KC's] position. We want to review AC and SOs in two, three years, and there may be some issues that ought to be reviewed periodically. Why do we need to wait until two, three years? That's number one. Number

two is we want ICANN Org to set up a department that'll be conducting accountability and transparency, and the position is, are we sure that they'll be able to do the same thing for an SO that will be perfect may not be perfect for BC for example.

So how do we take it holistically that what will be good for IPC the same thing that'll be good for ALAC is the same thing that'll be good for BC? Because each of them have different charters, different areas they're trying to pursue in their own reviews. That has been the snag. And yes, it's only KC that has been pushing that.

Some of the comment made was that KC is being too academic and she should not be going too much academic. That's been the challenge. Everybody feels that she's too academic and we don't need that.

STEVE DELBIANCO: Okay. And you're bouncing back and forth between the organizational reviews and the specific reviews, and I really [inaudible]

ADETOLA SOGBESAN: Yes.

STEVE DELBIANCO: [inaudible] key recommendations have to do with the specific reviews where the organization will accept recommendations made by community-driven reviews. So that's the one that's most important.

[Can we get] consensus on the specific reviews or not? Maybe not, I'm taking it.

Okay. Tola, thank you very much. Are there any questions in BC membership for Tola? Please remember to mute your phones when you're not speaking. Okay. Barbara Wanner, I'm going to tee it up for you now for the Commercial Stakeholders Group where you serve as the elected BC officer and liaison to the CSG. Barbara?

BARBARA WANNER: Thanks, Steve. Thank you. This'll be a very brief report just because [of all of the] uncertainty surrounding the virus. It is unclear when and where we will hold a noncontracted party house intersessional, so that remains to be determined, and we'll continue to engage with our NCSG leadership on its focus and preference. And currently, it looks like we might try and do this in early 2021 in Cancun, ironically, again.

We will also continue to engage with the NCSG via e-mail initially, and then ultimately [there will be a call concerning] reaching a consensus on board seat 14. Please keep your eyes open on that, because we will need a full contingent of BC members to participate in that call.

We will also have to reach agreement among ourselves concerning a successor to Keith as GNSO council chair, and also GNSO vice chair. Now, who we have in the vice chair position will depend on who we run for the council chair position. In our CSG call last week, we were encouraged to put forward our own candidate. To date, no one has volunteered, so that makes it seem more likely that the CSG will

occupy the vice chair position. But very fluid situation right now. Stay tuned. Hopefully we'll have more clarity on that in a couple weeks when we convene again for our regular BC call.

And that's my report, Steve. Thank you.

STEVE DELBIANCO: Thank you, Barbara. Are there any questions for Barbara Wanner, our CSG liaison? Glad to see in the chat some specific ideas on accuracy, so keep those ideas coming. When this call concludes though, please use e-mail to send Marie and Scott—or to BC private so they'll see it—specific ideas on the accuracy debate that'll happen at council tomorrow. And then please do tune in to the council meeting.

All right, that's it for the policy calendar, and I can turn it back over to you, Claudia. Chantelle, you put the agenda back up, Claudia, and I think it's over to Jimson after that. Go ahead.

CLAUDIA SELLI: Thank you, Steve, and thank you, Chantelle. The floor is to Jimson for the finance and operation updates. Jimson, maybe you're muted.

TERRI AGNEW: Jimson, I see you're unmuted on our side. If you could please check mute on your side.

CLAUDIA SELLI: I have the impression we lost Jimson. I cannot see him on the chat. Can you try and bring him back to the call, please?

TERRI AGNEW: We certainly will. Thank you, Claudia.

CLAUDIA SELLI: Thank you. Let's wait a few minutes if Jimson manages to be back.

STEVE DELBIANCO: And if Jamie Hedlund, our guest, arrives, we can jump to him while we wait for Jimson.

CLAUDIA SELLI: Of course. Indeed. While waiting for Jimson who has a technical issue, if anyone has anything to raise right now, any comments that you would like to share with the group.

MARIE PATTULLO: Claudia, can I ask a question?

CLAUDIA SELLI: Of course, please, Marie, do so.

MARIE PATTULLO: Thank you. I'm just benefiting from having the incredible Margie and Mark on the call. I listened in to part of EPDP earlier but didn't

understand what happened in the end with the idea of a pseudonym, an anonymized mail being covered up by a proxy mail. I'm not sure what the outcome of that was. Would either of them be able to explain to us what the decision was there? Because I saw it was crossed out when [inaudible] slides as being an issue that had been decided. Thanks.

CLAUDIA SELLI: Margie or anyone else that is on the call willing to respond to Marie's question? Mark, I see your hand's up. I think you want to respond to Marie, right?

MARK SVANCAREK: Yeah. I'm not exactly—we've mentioned the topic of pseudonymized e-mail in a couple of contexts. One of them is just as a general thing, what if we disclosed pseudonymized e-mail for the purpose of statistics and tracking. It would allow you to contact the person but not necessarily identify them. and the initial legal feedback on that was that it wouldn't usually provide the privacy protections that were anticipated because once you've contacted them, now you know who they are and you can apply that to all other pseudonymous uses, and that would be on a per requestor basis. But we were advised against that as a general protection.

I don't remember what the specific concept was in the context of privacy proxy though, so maybe Margie can set me straight on that. Thanks.

CLAUDIA SELLI: Thank you, Mark. I don't know if Margie wants to add anything.

MARGIE MILAM: Sure, Claudia. Mark's right, the legal advice we got from Bird & Bird was not very supportive of using pseudonymized e-mail addresses, so that's why we're leaning towards not having those be unredacted. And I don't believe they were asked anything specifically about privacy proxy services, so I don't know if I have anything extra to add about that, but I know that we were both concerned that with the legal analysis we received, there really wasn't any place to move the policy forward. So for now, it looks like our recommendation will be that even a pseudonymized e-mail address will still have to be redacted.

CLAUDIA SELLI: Okay. Thank you so much, Margie, and we will go back to Jimson. I believe he's on the phone right now. Jimson, the floor is yours.

JIMSON OLUFUYE: Okay, great. A real apology for the technical glitch. Can I have right to share my screen if possible? I have [inaudible]. Okay, so greetings, everyone, and welcome to ICANN67 virtual meeting and BC open meeting in particular. [inaudible] and all our friends and all regulars, you're welcome to this session.

Well, [inaudible] with regard to finance, budget, the level of [inaudible] performance, I could have higher than this, but for the [inaudible]

committee for now, [inaudible] for our 20th anniversary has been put on hold. But all the same, [inaudible] is good, and [inaudible] in good standing.

With regard to operations, [inaudible] and of course, the BC 20 anniversary is agreed that will happen at the face-to-face meeting whenever that comes up in a future date. Our heart goes out to everyone who has challenge [inaudible] concerning the coronavirus, and the utmost wish that no one was contracted. So let's keep good hygiene and be safe.

With regard to the 20th anniversary planning, I'd like to really thank Mark for his efforts on the video stream and speaking. Members who are yet to thank this to him, please do so. [inaudible] and the expectation for the next 20 years in the BC [inaudible] sufficient time to put this together.

I would like to [inaudible] reaching two of our members. We've been sending messages to them. Looks like the e-mail system is bouncing, their e-mail is bouncing. Our member [inaudible] like to request members [inaudible] get through to their e-mails.

Next, on the operation, with regard to the work of the credentials committee, the [inaudible] committee chaired by [inaudible] done a lot of work. They put up a strategy [inaudible] to ensure more efficient and [inaudible] in regard to admission of new members. So they have come up with a checklist to improve on the way they handle applications. They had [inaudible] yesterday and they did approve the [techniques.]

There are two important updates in their list. maybe I should just share it. Let me try to share that [inaudible] for members to be aware of.

ANDREW MACK: Jimson, while you're doing this, can I just jump in and say a quick word of thanks to everyone?

CLAUDIA SELLI: Of course.

JIMSON OLUFUYE: Okay. Please go ahead.

ANDREW MACK: Thanks. We got a lot of support from excom and from other members of the community around putting together the 20th anniversary celebration. I know we are all business all the time, but it is important to occasionally take stock of how far we've come and the things that we've done.

One of the things that was pretty exciting was not only did we have a whole video thing that Mark was working on but we had reserved—the Hard Rock Café had instruments and musicians at the ready, had screens on which we were going to show the movies of all of you talking about your companies and wishing the BC a happy 20th birthday.

So on a personal note, having spent a lot of time on the phone with Mexico, I'm awfully sad because it was going to be a really great gig. I hope we will have a chance to do it again in the future. And for everybody who was thinking about it, please do—at some point in time before the next one—let's make sure that we do do the videos that Mark was recommending. And at some point, all of this craziness will end and we will have a big party. And we look forward to celebrating the BC. Thanks.

CLAUDIA SELLI: Thank you, Andrew.

JIMSON OLUFUYE: Thank you so much, Andrew. [inaudible] arrangement of musicals and ground logistics. Thank you, Andrew, and all our friends and colleagues helping to work towards that. I hope shortly it'll come together again.

So I believe you can see the checklist that they put up. It's quite important for membership. [inaudible] application form must be completed in English. We've had some application come in in other languages. We [inaudible] language [inaudible] mechanism, even though our website [inaudible] recommendation, our website has a description in many languages already, UN languages. So when it gets to application language, [inaudible] should be in English specifically.

And then item two which remains the same, it's regulatory criteria for membership. Applicant confirms that they agree to the BC

membership criteria as outlined in the BC charter, and of course that they're a legal entity, for profit organization and in the business of electronic commerce, and [inaudible] not-for-profit organization should be [inaudible] association. For example, [inaudible] organization representing business entities, and they fully subscribe to the mission of the Business Constituency.

Another important update that the credential committee needs to ensure smooth consideration is item three, applicant must have a functional website that outlines the business they represent as part of the BC and provide the BC with a functioning link to that site.

Then very critical is item four, which was part of the outcome of last BC charter review and approval, and that is applicant must affirm that a percentage of revenue derived from contracted parties, that is registries and registries, does not exceed 30% regards to the BC charter. Should revenue come to exceed 30% during the course of membership, they must notify the BC within 15 calendar days.

Item five, applicant must indicate if they are already member of another GNSO stakeholder group or constituency. And if it is true, then the applicant need to indicate where they want to be a voting member in, whether they want to be a voting member in BC or another stakeholder group.

Then once an application is successful, we do have a list of members that's published on our website, so I'd like to encourage [inaudible] members to check the list on the website that shows [inaudible] properly represented.

Item six has to do with the applicant, need to show —if an applicant indicates that they are a member of either of the registry or registrar stakeholder group or that the applying individual is a director or employee of another company which performs registry, registrar or reseller [inaudible], the following will occur. If it belong to that, to the registry or registrar, it will then occur that the credential committee will enquire about the applicant's source of revenue and the percentage of revenue as well as its commitment to user and consumer perspective.

[inaudible].

CLAUDIA SELLI: Well, Jimson, sorry to interrupt you but we have our speaker that arrived, so if this is possible maybe that we'll leave the floor to the speaker and then we go back to you, and hopefully time would allow that. Is that fine for you?

JIMSON OLUFUYE: Yeah, that's okay. No problem.

CLAUDIA SELLI: Thank you so much, Jimson. And thank you very much, Jamie, for joining us in today's call. I think you're already here, and we would really appreciate your views. We already started a little bit the discussion around DNS abuse during the [inaudible] and you've been

there, so some of the presentations and the arguments have already been heard from you, not only today but also in Montréal.

I don't know if there is any initial remark that you would like to share with us or if rather you prefer to go in more a Q&A mode.

JAMIE HEDLUND: Sure. First of all, thank you for inviting me. It's good to be here remotely, and of course, I'm happy to answer any questions. I was grateful to see the letter to Martin from Business Constituency on DNS abuse. I think it's important for a couple reasons. One, it shows how important a topic it is for the BC, and it's obviously critically important for the BC to participate in the community discussion.

And then secondly—and this goes back to Montréal and probably even before that— there's been helpful dialog to help provide clarity and transparency around what the policies are and what the contractual obligations are.

We are at an interesting point now where a lot of the registries, registrars have signed onto this framework document, which is great, but it also highlights the fact that as some of the DAAR data shows, more than 90% of the abuse that DAAR tracks is being perpetrated by fewer than 50, fewer than 20 contracted parties. So figuring out a way forward to effectively address those bad actors while ensuring that registries and registrars continue to fulfill their existing contractual engagements, and as we found during the registry audit on DNS

abuse, the vast majority of them are doing far more than the agreements require.

But that's not to say that there isn't an issue to address, and I'm glad that BC is doing that. So with that, I'll be quiet and be happy to take any questions.

STEVE DELBIANCO: Jamie, hey. The purpose of this session—and thank you for accepting—is to have a much more detailed, and I think more constructive, dialog on the letter that ICANN board chair Maarten wrote back to us. I'm assuming as the one in charge of this portfolio at ICANN, that that letter reflects your views, and it's an opportunity for us in a very calm dialog to understand more details behind it, because the more we understand about your perspective, both the limitations and the excellent work that you've done, the more effective we can partner with you to go after those two dozen bad actors. And I'm glad you teed it up that way, because why don't we just focus the short time we have together on the letter itself that you wrote back to the BC, and think about whether ICANN can do more to go after those bad actors?

And so to tee it up, Jamie, I think you have visibility of the Zoom room. And you haven't memorized it already, I've highlighted the key sentence that we brought up in the CSG board session. So rather than having Becky and the board weigh in, and Göran, this is just between you and the BC to help us understand it better the statement that you expect the registry operators to enforce the inclusion of 11 3, but the

most important part is the end of that sentence where you expect the registrars to enforce the registration agreements that they have with the domain name registrants.

So the word "expect," naturally when you wrote that, you had to know that we would come back and say, "Well, what does that mean, expect, and what are the actions you can take to enforce that expectation?" Over to you, Jamie.

JAMIE HEDLUND: Sure. So Steve, thank you, first of all, again, going back to Montréal for servicing this issue with Specification 11 3(a), because I don't think there was a lot of understanding in the community when it was put in place and since then, and what it means.

So what the letter tries to elucidate is, first of all, what are the requirements of the various parties, and where can ICANN Compliance take action to enforce? And what the letter says is that ICANN Compliance can ensure that the registries have in fact included the required language in their agreements with registrars.

We don't have [privity] of contract, meaning we don't have any contractual agreement with registrars and registrar name holders on this particular set of obligations, and so I think when Martin says there's an expectation that people uphold their obligations, it is just that.

Whether or not it's enforceable by ICANN Compliance, there is an expectation, if people say they're going to do something, that they do

it whether or not ICANN Compliance can sanction noncompliance with that behavior. So I hope that's helpful.

STEVE DELBIANCO: Jamie, so [that there's no] misrepresentations, the statement that you expect is not a statement, you believe, that ICANN has any enforcement power whatsoever, and so that expectation is of no use at all at holding registrars accountable for those expectations?

JAMIE HEDLUND: Well, I wouldn't go quite so far. I would think that if those expectations are not upheld, the only remedy is not Contractual Compliance, which as I said doesn't have a role, but it would trigger the very conversation that we're having now and a community reconsideration of whether additional rules need to be put in place that are backed up with sanctions for noncompliance.

STEVE DELBIANCO: But as far as you're concerned, ICANN cannot impose any sanctions for 11 3(a), right?

JAMIE HEDLUND: 11 3(a), we [can't] go after the registered name holder or the registrar.

STEVE DELBIANCO: Got it. So before we move on to other parts of the letter, any other BC members that want to probe this more deeply or make constructive suggestions to Jamie? So giving his department ways that—

JAMIE HEDLUND: Steve, if I could, that's the other thing, and I think you were on the ALAC call as well, which is traditionally, what ICANN Compliance has done is enforce the provisions as they exist in the agreement, right? We have a provision that says you have to do X, if you don't do X, we go after you.

There have been folks in the community, in the contracted party house and the noncontracted party house who have suggested that there are other ways that we can go after bad actors that we have not explored yet.

So I am grateful for suggestions and ideas on what we can consider and how we might go after the truly bad actors who are responsible for such a disproportional share of the abuse.

STEVE DELBIANCO: Yeah, and we wouldn't hesitate to name and shame if that was all that we could do. With 25 bad actors, I hope those names are listed somewhere and pinned up on the wall of your office. We've got a couple of BC members in the queue. Andrew Mack, then Mason Cole. Andrew, were you on this topic or is that an old hand? Mason Cole, please go ahead.

MASON COLE: Thanks, Steve. Greetings, Jamie. Thanks for joining. I wanted to revert to the letter just for a moment. This situation that we've been back and forth on now for several months, it feels like we're standing on the high dive at a pool but we never get to the end and jump in. There have been some aborted attempts on several areas, and I'll point out one: the DNS abuse framework that some of the contracted parties had put together.

Going back to Montréal, we applauded that and still applaud it, but it's really no substitute for action across the board on bad actors in the DNS. So it only takes you so far, and I think we're interested in seeing if there's a way to get us off the high dive and swimming productively in the pool.

So my first question is, going back to the conversation we had with Göran today, how do we break this cycle that we're in to help you get the language that you think will help you do the job that we think you want to do but can't quite get there to do? Do you have thoughts about that?

JAMIE HEDLUND: I think Becky Burr's been clear on this in Bangkok and other places, but there are two days of creating obligations on the contracted parties. One is through the voluntary contracting process, and the other is through policy development.

So I guess a third is the one we were just talking about, is, are there creative ways of looking at the contracts themselves and the nature of the agreements with contracted parties to read in other ways of going after the seriously bad actors?

So on the contractual process, that's between ICANN and the contracted parties. The policy development process is a communitywide exercise, and so those would be the two ways forward. Otherwise, we kind of are where we are, except for the third which is looking at the agreements in a different way than we have today.

MASON COLE: Yeah, I think we went down that path a bit, but I'm not sure either of us found that to be particularly productive.

JAMIE HEDLUND: Yeah, so the other—I don't think that that's necessarily over. And sort of related to that is the additional fact gathering that we've done. Traditionally, what we in Compliance have done is we respond to complaints, we do audits and we also do proactively reach out based on media reports and other industry indicators of stuff going on.

We gained some interesting information during the audit of the registries on DNS abuse. That was the first time we had done that kind of an audit. We'll be doing the subject matter expert thing with the registrars shortly. And those yield data that might lend support for a different approach to some of the bad actors.

Similarly, DAAR, as the tool becomes more sophisticated, that's yielding more data, more specific data on identifying those parties that could qualify as bad actors, and not just based on the reputation but based on domain names that are being used to perpetrate abuse.

MASON COLE: Okay. All right. So I appreciate the fact that that door is still open. I'll go back to a question I asked in Montréal, if I may, which is, would ICANN Org be willing to come to the table with contracted parties for a negotiating session if the contracted parties are willing to step up to the plate and the community gave its support to that effort?

JAMIE HEDLUND: If the contracted parties were willing to step up to the plate?

MASON COLE: Correct, yeah.

JAMIE HEDLUND: I mean, on this issue or any other issue, if they're willing to step up to the plate, unless it's something that would be totally against ICANN's interests, of course we would step up to the plate. I've got to say though I'm speaking to you as head of Compliance and not GDD or the CEO.

MASON COLE: Sure.

JAMIE HEDLUND: [I don't] sign those agreements. We provide input into the negotiation of them, but we're a stakeholder, not a principal.

MASON COLE: Well, you're party to the contract, so you've got a different stake in the game than we do at this point. But I understand your answer, so thank you. I have one other question, Steve, if I may.

STEVE DELBIANCO: Okay. We have a queue building, so—

MASON COLE: Oh, no, then please, I'll go next in the queue. Go ahead.

STEVE DELBIANCO: All right. Jimson and Margie. And both Jimson and Margie, if there's a section of ICANN's letter that you want to focus on, just tell me and I'll scroll to that. Currently, I'm on Spec 11. Jimson, over to you for a quick question.

JIMSON OLUFUYE: Thank you, Steve. And Jamie, [you're welcome.] I just want to flag a major concern with regard to the way we handle this abuse issue. If you recall, the issue of data protection, it was [inaudible] quite a while until we had GDPR, and that got us scrambling. As it is now,

government [inaudible] also aware of that, so we are not crucified in regard to our accountability.

So my [inaudible] concern is that we need to really develop and do much more to [inaudible] abuse and [inaudible] play in our role effectively and ensuring the compliance with the registry and registrar, they comply with their contractual agreements. This is quite crucial at this point. Thank you.

JAMIE HEDLUND: Thank you.

STEVE DELBIANCO: Margie.

MARGIE MILAM: Hi Jamie, and thank you for coming to the BC. I think one of the areas that I'd like to probe is whether ICANN can, with this feedback, encourage the community to come up with topics for amending the contracts.

It's clear in the response from the board that, at least from the board's perspective, they believe the contracts aren't as flexible as we pointed out in our BC letter. So I think that's a window to find better language and to perhaps follow the process that was followed in the 2013 round where ICANN led an effort that reached out to the various stakeholder groups to see what additional changes could be made to the RAA, and then went ahead and negotiated on behalf of the community.

So ICANN took a very active role, and that was with our former CEO of ICANN. There's nothing to stop ICANN to do that now. And I feel like given the strongly worded letter we received from the board, that that's certainly one avenue that should be pursued.

The letter also had other ideas which I think are more easily acted upon by Org. For example, providing advisories on how to interpret some of these provisions, those are things that I think are certainly within the remit of the Compliance department and it has been done in the past.

So I'd encourage you to take a look at some of the options, because the BC letter really tried to identify different ways of proceeding in this area to provide clarity. I do think that the DNS abuse framework, while it's helpful, isn't the answer, and there's no indication at this point that the contracted parties are even following the framework. So I feel that it is something that while we all encourage the contracted parties to do the right thing, it isn't the answer to this problem. So this is just one of the things I wanted to encourage you to take back to Org, to really see whether we can jumpstart a process where if there is this gap in contractual interpretation, that something is done about it. And it can be done in various ways, through new contracts, through contract renewals in the new gTLD process when we get to that.

So there's lots of different ways, but I think our point is to be creative and to find a way to solve this problem for the entire community.

JAMIE HEDLUND: Okay. Thank you for that.

STEVE DELBIANCO: Any reaction, Jamie? Or I'll go back to Mason.

JAMIE HEDLUND: No, we tried to address a lot of those points in the letter. I guess the only thing I would say is in terms of the advisories, I think advisories are great if there are willing parties, or parties are willing to be advised. We ran into some friction when we came up with the advisory on—

STEVE DELBIANCO: With these six steps that I have on the screen?

JAMIE HEDLUND: No, this is a different one. This is the security framework advisory on Spec 11 3(b), which we tried to create a framework for the registries to fulfill their obligations under Spec 11. It's voluntary advisory, but there was an enormous amount of pushback, and so—

STEVE DELBIANCO: When you say pushback, are you speaking of the contracted parties that you regulate pushing back on you?

JAMIE HEDLUND: Contracted parties, yes.

STEVE DELBIANCO: That's to be expected. In every situation, you would expect that the party that you're enforcing against is not as entirely comfortable with it. [inaudible].

JAMIE HEDLUND: Absolutely. No question about it. And the point I was trying to make is that it could be a reduction in pushback or reduction in friction anyway if it's not just us working against the contracted parties but in this issue of investigate and respond, if the CSG were to—or the BC or IPC, whoever, ALAC, work with the registrars on what it means to promptly and adequately investigate and respond, that can be helpful.

They've come out with some guidance recently on what should be in a third-party access complaint—request, which, totally different subject, but sort of along the same lines of them responding to input from the community. In this case, it was the GAC and others who wanted a standard form. And then also, it was in their interest, I believe, because they don't want to have to waste time on poorly formed requests.

So similarly with these types of abuse reports, they've put forward information that they think should be contained in complaints so that they're complete and they can act on them. So the other side of that is what your letter went after, so I just would encourage you to speak

with the Registrar Stakeholder Group, and we're happy to facilitate that discussion, both parties want to get together and figure it out.

STEVE DELBIANCO: Well, we were going to facilitate it with some tequila this afternoon. That would have been the goal [inaudible] in Cancun. But Mason wants to come back to 3.18, and I've put on the screen your response to us where you indicate that you did come up with six things that ought to be part of handling complaints.

Now, if the contracted parties who are responsible actors push back, it's because they may have their own ways of doing things, and they don't want to be prescribed to on how to handle their business. They're not the problem. What about the two dozen bad actors you spoke of earlier? Can you hold them to account that they've done none of these six things in your letter? And can you begin to say that if you do none of those things, then you are in breach of the reasonable and appropriate response?

JAMIE HEDLUND: What we can do is make sure that they have in fact investigated and responded, and we'll ask them for evidence that they have done exactly that. We can't say, "If you haven't done at least some of one through six, you're in breach," because nothing in one through six is in the agreement itself.

STEVE DELBIANCO: Jamie, wait a minute. The agreement says that they have to do reasonable and prompt steps to respond appropriately.

JAMIE HEDLUND: Right.

STEVE DELBIANCO: And if they do none of these six, you don't believe you can claim that they are failing to meet the reasonable, prompt and—

JAMIE HEDLUND: I think if they don't respond, if they don't investigate, then yes, it becomes true that they would not be complying with all of one through six. What I'm saying is the opposite: we can't start with one through six and say, "Did you do any of these?" And they say, "No," and we say, "Well, because you didn't do one through six, you're out of compliance."

                        If that were to go to court, we would lose because one through six is not in the agreement. We have to establish—

STEVE DELBIANCO: [inaudible].

JAMIE HEDLUND: No, but I'm just trying to make it easy—

STEVE DELBIANCO: Think about naming and shaming and finding ways in which you can terminate their registrar agreements.

JAMIE HEDLUND: Yes. Right.

STEVE DELBIANCO: [inaudible] times in the last several years, and there ought to be an easier way to get those two dozen bad actors [inaudible].

JAMIE HEDLUND: Steve, I completely agree. One tool that we do have, and I admit we have not used as efficiently as maybe we could have, is that if someone gets called in and they're found to be noncompliant, we tell them—and then they remediate. We say, "Okay, that's great, you're remediating. If we heard that you're doing the same thing again," to avoid the catholic thing of going in for a confession so you can sin again—I can say that because I used to be catholic, but we would tell you if you come in again, we can go immediately to an escalated notice.

What an escalated notice means is that they've got five days to fix it or they go to public breach, whereas normally, you come in first time, there's a first notice, second, third. Each one gets five days before they get to a public notice [of breach.]

STEVE DELBIANCO: Right. And your letter went to great extent to indicate the nonpublic way that you work with contracted parties. But Jamie, 25 bad actors deserve public shaming, naming. You can do that.

JAMIE HEDLUND: Understood. Right, so what I'm saying—just hear me out for a second—is we are migrating to a new ticketing system on a Salesforce platform that'll allow us to keep much better data and keep better track of recidivists. So when we get complaints—and we should—from these two dozen or so bad actors, then that allows us to move much more quickly and put them into breach, which as you know is a public notice.

STEVE DELBIANCO: We have a follow-up from Mason Cole.

MASON COLE: Thanks, Steve. Actually, Steve, you asked my question. It was about section 3.18. Let me just refer back, if I may, to something that Ron da Silva said in our interaction with the board and the CSG earlier today where after Becky had her input, which Jamie, you just alluded to a minute ago about various avenues for closing up the policy gap or closing up the gap in the contracts that would allow for you to go after the 25 works actors, Ron had a particularly useful comment when he said, "Look, I think there's a gap here that we all recognize and there's an avenue to go down to satisfy it, and it looks like we need to pursue that."

What I inferred from that is we could spend three years on a policy development process and probably get a lot of pushback, or we could act on the situation as it stands right now, which is DNS abuse is a growing and serious problem. And we can encourage the contracted parties to step up to the plate and find a reasonable solution in the near term. And that's what I hope we drive after.

If this requires BC input on current contract language, which we've provided but we'll go back and try again, if it requires BC input on what potential contract amendments might look like in order to give you the tools you need to do the job, we're willing to do that as well.

I think we're looking for the most constructive, nonconfrontational way to get to a solution to the problem, because with all due respect to everybody involved in this conversation, we've danced around the issue of abuse for quite a long time now and we're not getting anywhere and the problem's getting worse. So we're looking for a quick avenue to get this satisfied. So I hope ICANN Org can come along with that.

JAMIE HEDLUND: Understood. Thank you.

STEVE DELBIANCO: As I'd noted in the chat that earlier, the US authorities ended up getting Al Capone, the notorious bad actor, gangster, they got him on income tax evasion, not for any of the other crimes that he had so cleverly avoided culpability for. So be creative, please.

Jamie, why don't we give it to you to close this off and tell us what you think—this letter was respectful and courteous response to us, and I appreciate that. it had a very frustrating reaction in the BC. We felt as if the phrases that we've highlighted and discussed with you were basically telling us there's nothing we can do, we don't have the tools.

So this conversation dove a little more deeply into that and we're encouraging you to use all the tools at your disposal, be as creative as you can, and please don't be afraid of being sued. Don't pay attention to imparting burdens on good actors and only pay attention to what we can do to root out the bad actors.

I believe contracted parties want to avoid the terrible publicity coming their way by helping you and helping us go after the bad actors. So I'll leave it to you to close, Jamie.

JAMIE HEDLUND: Thanks, Steve, and thanks again for having me. This is, as always, a constructive discussion and very much appreciate the thought and creativity that you all put into the letter and into this conversation.

I understand the frustration, but I don't think it was intended to—it wasn't written with the intent to frustrate the BC. It was intended to try to be factual. And if it's frustrating, then that should be a motivator for further community work and discussion to make improvements where we have to.

We're not afraid of being sued. We got a lot of grief during the DNS security threat audit from the registries, expect to get a lot of

pushback from the registrars as well, but as with DAAR, we're going to continue to push forward and try to, if nothing else, provide clarity around the facts on the ground so that everyone in the community can engage in figuring out how to move forward.

STEVE DELBIANCO: Thank you, Jamie. If the people you regulate give you grief, it probably is an indicator you're trying to do your job. So don't give up, please.

JAMIE HEDLUND: I won't, but I—so John Jeffrey doesn't go after me, I can't agree that we regulate. But otherwise …

STEVE DELBIANCO: You enforce contracts.

JAMIE HEDLUND: There we go. Thank you.

STEVE DELBIANCO: Jamie, thank you for joining us, appreciate [inaudible] BC.

JAMIE HEDLUND: All right. Thank you all. Take care.

STEVE DELBIANCO: Yes. Thank you, Jamie. Join us for a tequila at the bar right after [inaudible]. Claudia, back to you and Jimson.

CLAUDIA SELLI: Thank you, Steve. Jimson, I would call on you to conclude the report from where you stopped, if you can give us a quick update in three or five minutes we have left.

JIMSON OLUFUYE: Okay, so welcome back [inaudible] but I think that was a nice discussion on the critical issue of abuse. I wonder if [any of you have any] comments to the checklist the credential committee presented which I just went through. Any comments from the credential committee members?

ARINOLA AKINYEMI: This is Arinola for the record.

JIMSON OLUFUYE: Okay, go ahead.

ARINOLA AKINYEMI: Okay. I would not have anything much to add. You have captured the essence of the checklist. All I have to say is to thank the excom for the speedy consideration and the approval of the checklist, to also thank the members of the credentials committee for their efforts at putting

this together, and also a big thank you to Chantelle for all her support during the process.

Following this approval, we would want to come into the next phase, which will be to do a review of members' credentials to ensure that they're in compliance and also to ensure that new members are in compliance with the checklist. Thank you.

JIMSON OLUFUYE: Okay. Thank you very much, Arinola. Next item is the outreach plan for the Democratic Republic of Congo during the period of May 24 to June 12 during the African Internet summit, we plan an outreach [inaudible] event [inaudible] and our Lawrence Olawale-Roberts will be there to represent the BC. So thank you, Lawrence, for taking that up.

The BC ICANN67 [inaudible] newsletter is out. The newsletter we normally publish [inaudible] please visit our website to get a copy. It's quite informative and beautiful. So even if you are not in Cancun, you will really feel the spirit of Cancun. So go to our newsletter to have some feel of how Cancun should actually be.

Lastly, I think [inaudible] concern of our governance moving from multi-stakeholderism to multilateralism with regard to cyber and Internet governance issues. Up to 2019, there's been quite a number of indignant the multi-stakeholder level [inaudible] there have been more activities at the [inaudible] general assembly [inaudible] working

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group, governmental [inaudible] talk about this issue and the issue of cybercrime—even the abuse you're talking about is part of it.

[inaudible] so the Compliance department [inaudible] very seriously. [inaudible] feedback that ICANN [is really lost] with regard to mitigating abuse cases on the Internet. So I don't know if there's any question in this respect.

Okay, so hearing none, I'll just hand over to you, Claudia.

CLAUDIA SELLI: Thank you very much, Jimson, and I'm mindful of the time because we have two minutes left. I'm just asking if anyone has any other—yes, Marie has an AOB, I see that in the chat. So Marie, if you can go ahead.

MARIE PATTULLO: [inaudible]. First, a huge thanks to Marks, to Andrew, to Jimson, everybody that tried to get us the most amazing BC 20th anniversary that we didn't yet have, but we will. However, I am mindful that there is something else that should be brought to the attention of the BC, and here I would call on Chantelle. Can you assist me, please?

This week is the birthday of both Claudia Selli—our esteemed chair—and Barbara Wanner, our CSG representative. So ladies and gentlemen, I would like you to join with me in unmuting yourselves and saying happy birthday to two of the ladies who work the hardest in the entire ICANN ecosystem.

UNIDENTIFIED MALE: Happy birthday to you.

UNIDENTIFIED FEMALE: Happy birthday to you.

UNIDENTIFIED MALE: Happy birthday Claudia and Barbara.

UNIDENTIFIED FEMALE: Happy birthday to you.

STEVE DELBIANCO: Yeah, sing it twice while washing our hands, right?

CLAUDIA SELLI: Indeed, precisely. Thank you for the surprise. I was not expecting that. I believe Barbara the same. Thank you.

ADETOLA SOGBESAN: Is there tequila going along with the happy birthday song?

CLAUDIA SELLI: Indeed, that would have been very nice. but we're postponing the celebration for the BC and for everyone, hopefully soon. And thank you, everybody, for all the work that you have been putting really in the organization of this celebration that didn't happen. I hope that we can realize that, and thank you to the whole BC member for attending

the call virtually and for everybody for sacrificing part of their evening, night and day. Thank you all, and I wish you a very nice rest of the day or good night for those who are in another time zone. And we'll certainly speak soon.

TERRI AGNEW: Thank you everyone. Laramie and Thomas, if you could stop all the recordings, that does conclude the meeting for today.

[END OF TRANSCRIPTION]

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