The ICANN GNSO "Business Constituency"

Minutes BC Members Call
September 19th, 2013
11 am EDT (3 pm UTC)

BC Attendees:

Elisa Cooper	Mark Sloan
Steve DelBianco	Emmett O'Keefe
Marilyn Cade	Philip Corwin
John Berard	Bill Smith
Zahid Jamil	Laura Covington
Jimson Olufuye	Stephane Van Gelder
Janet O'Callaghan	David Fares
Richard Friedman	Ron Andruff
Ayesha Hassan	Andrew Mack
Marie Pattullo	Angie Graves
Andy Abrams	Benedetta Rossi, BC Secretariat

Apologies:

Martin Sutton
Sarah Deutsch
Olga Yaguez
Susan Kawaguchi
Chris Chaplow

1. Introduction

Elisa Cooper:
Elisa Cooper, BC Chair, went over the agenda items for the meeting, and added some topics for discussion prior to turning it over to John Berard for Item 1 on the agenda.

Credentials Committee

Elisa Cooper:
- Elisa noted that the BC has received a number of requests for membership and she has realized it has been some time since there has been a change in the members that participate with the Credentials Committee.

- Elisa encouraged members who are interested in participating in the Credentials Committee to volunteer.
- Role of Credentials Committee members: the Credentials Committee is there to review the applications and ensure that they are in line with the BC Charter. It is made up of at least three members.
- Elisa asked Benedetta Rossi, BC Secretariat to chime in and give an estimate regarding the time spent by Credentials Committee members on Committee work.

Benedetta Rossi:
- Benedetta noted that the time commitment for CC members varies depending on the amount of applications received. At the moment the Credentials Committee received quite a few applications and due to potential changes in the Charter and due to the different range of applicants which are currently applying for BC membership it has become increasingly difficult to assess whether applicants are eligible or not.
- Normally the CC work is not a day to day task, but can be a weekly task, again depending on the applications received.
- CC members normally discuss applications via email, with sporadic conference calls in case of difficult situations which need to be discussed over the phone.
- Benedetta, as BC Secretariat is the liaison between the CC and the applicants.
- Benedetta noted that the Credentials Committee members are the right people to speak to if you members are interested in this role.
- Current CC members: David Fares, Martin Sutton, and Ron Andruff.

ACTION ITEM: Laura Covington, John Berard, Jimson Olufuye and Philip Corwin volunteered to join the Credentials Committee.

GNSO Councilor Election:

Elisa Cooper:
- Elisa noted that the election period for the BC GNSO Councilor position will start in a couple of weeks, and will run for a couple of weeks. Elisa strongly encouraged members to consider running as a Councilor.
- Elisa received an email yesterday that there will be like training for new participants at ICANN, which will be a sort of orientation and training into the whole ICANN landscape. Elisa would envision potentially this councilor participating in this training that would occur just prior to the Buenos Aires meeting.
- Elisa stressed the importance of looking for a councilor that is from a region other than the North American Region, because there is a desire and need for geographical diversity.
- Elisa noted that some BC members may feel that they are not an expert at ICANN or haven't been at this long enough, but the role of the councilor is to represent the Business Constituency and for

us as the Business Constituency to help provide the councilor with guidance and how to address policy issues as they come about at the council level.

Accountability Transparency Review Team

Elisa Cooper:

- Elisa noted that the Accountability Transparency Review Team has requested to meet with the BC at ICANN Buenos Aires.
- We are working currently with the Commercial Stakeholders Group, which is comprised also of the Intellectual Property Constituency and the ISPs, to potentially meet with them with the group from the ATRT, the Accountability Transparency Review Team, as part of our meetings with the rest of the CSG.

Charter Changes:

Elisa Cooper:

- Elisa noted that she is aware that there were some changes sent within the last week and a half, but she is also aware of members who asked for Charter changes to be put on hold. There are currently a lot of comments in process and it was the summer holidays, so Elisa will now pick this item back up to continue moving forward with Charter changes.
- Elisa's aim is to get these changes done by the end of the year.

2. **GNSO Council Update – John Berard & Zahid Jamil**

John Berard:

- The key thing from the council's perspective that John thinks is important for the BC is to appreciate that issues that we have been vocal on have gained some traction or gained traction that we need to qualify at the council level.
- As you know, the BC has been adamant that the GNSO review move forward without delay, and Jen Wolfe who is a Non-Com member of the council, has been asked to lead the group at the council level to do just that.
- John noted the BC should appreciate the fact that the other members of the GNSO community are in agreement with them that this review should move forward and that the council is trying to make sure that the pot gets stirred so that there would be even less chance of a delay.
- John noted that the next GNSO Council meeting is on the 10th of October.
- The other item that has been of intense interest to the Business Constituency has been the new gTLD program's fits and starts with regard to singulars and plurals, with regard to different decisions on objections. And so this noise in the new gTLD program has drawn the attention thanks in part to the efforts of not just our constituency but others, drawing the attention of the council.

- A letter was sent by Jonathan Robinson on behalf of the council to the new gTLD Committee, the board, highlighting the specific places where the program is at odds with the language of the guidebook.
- John suspects that there is going to be an increasing amount of discussion on this point and that it is a good opportunity to inject the BC's point of view on some of these things.
- It probably won't be resolved or moved very far forward by October 10, but could wind up being a significant part of the weekend sessions' agenda in Buenos Aires.

Zahid Jamil:
- Zahid added that in the letter that Jonathan sent to the board he did mention that we are looking at certain possible ways in which to address the string confusion and basically the issues of conflicting results that have been coming up.
- And what they had discussed on the council was that they would bring this issue back to their stakeholder groups and constituencies so they can consider and discuss how to move forward on this.
- Zahid noted that the BC could think about what they feel the council should do here, should there be a taskforce, and what should the response be? Should it just be a letter?

Steve DelBianco:
- Steve urged the BC to take a lead and draft a letter ASAP to present to the Council regarding singulars vs. plurals.
- Steve will submit all of the information he has gathered, for a volunteer to turn it into a letter to present to the Council.
- If the council does not like the letter drafted by the BC, the BC can turn it into a BC letter as part of the campaign to fix this issue.

ACTION ITEM: Elisa Cooper, Andy Abrams and Ron Andruff volunteered to draft a letter on the singular vs. plurals issue together to submit to the council prior to Oct. 10th.

3. **CSG Update – Marilyn Cade**

Marilyn Cade:
- Marilyn noted that the update she presented to members is mostly an update subject to inputs and recommendations and comments from the members.
- Marilyn reminded members that the Commercial Stakeholder Group is a coordinating agreement between the three constituencies, and we rotate the substantive coordination. The IPC is coordinating for Buenos Aires, for Singapore it will be the BC again, and for London, the IPC.
- In Durban there was an excellent addition to the CSG interactions which was the Sunday afternoon meeting. The CSG submitted the request again for Buenos Aires, and the primary

purpose for that is to give the CSG time to interact with key groups that they otherwise don't have time for and also to allow the CSG to debate within the CSG differences of opinion on key policy or governance topics.

- The CSG interactions in Buenos Aires will start off on Sunday morning at 8 am or 8:30 am (to be confirmed) which is the one-hour session that Bruce Tonkin and Bill Graham meet with the CSG. They are the elected board members from the GNSO Council and they typically keep this on their agenda as an opportunity to interact with the CSG. We are confirmed for that and Bill is actually interacting directly with Bruce at the upcoming board face-to-face meeting, which will be next week.

- The CSG will then meet on Sunday afternoon for a two-hour session that will be focused on issues yet to be developed across the CSG. There is an opportunity to perhaps meet with some of the groups they are very interested in during that afternoon and save the Tuesday CSG session, which will be from 9:45-11:15 for finalizing discussions related to policy and their interaction with the ICANN board.

- At 11:15 on Tuesday the CSG is confirmed with the Board.

- On Tuesday morning the CSG is confirmed for the Cross Constituency Group Breakfast. They have reserved the time, and are on the agenda for the Cross Constituency Breakfast, so the BC now needs to come to an agreement with our colleagues in the CSG on the priorities for guests. The ISPs are very interested in, Security Stability Advisory Committee (SSAC) or ccTLD supporting organization (CCNSO); the IPC has indicated diverse interests, whereas the BC suggested we prioritize between the SSAC, ccNSO or the ALAC.

- Marilyn noted that Elisa suggested that we may want to consider meeting with the GAC again although we've met with the GAC for breakfast twice.

- There is a possibility of meeting with the SSAC or the GAC as a substantive consultation, not just at the breakfast.

- And then finally the ALAC has contacted Marilyn indicating their interest in planning toward an interaction with the CSG or if not possible with the CSG with the BC for Singapore and to start that planning off while we are together in BA.

ACTION ITEM: Benedetta Rossi, BC Secretariat, will send out a call for member input regarding the preference for the guest group invited to breakfast in Buenos Aires. The choices will be between the ALAC, GAC, SSAC or ccNSO.

4. **Policy Update and Open Comments – Steve DelBianco**

Steve DelBianco:
- Steve asked members to refer to the policy calendar he circulated to the BC list two days before the call took place.

Public comments the BC filed this week:

- Name collision risks:
  - ❖ When Steve circulated the last call Marilyn suggested stronger language and within hours Sarah Deutsch came back with some stronger language. Steve helped her with that and hearing no objections we filed strong language two days ago.
  - ❖ There were 78 total comments and Steve has yet to catalog how many folks are calling for further study on the impact on businesses.
  - ❖ But as you well know internal name collisions will cause software to break - something will go wrong, that's not even in dispute. And when it does go wrong the question is what is the impact on the business interruption and what are the costs of changing the code.
- Rights protection mechanism
  - ❖ Elisa was the lead drafter on this, and Andy of Google pitched in as well and those comments were filed a few days ago, there were 70 total filed on rights protection mechanisms.
- DNS risk management framework
  - ❖ Steve brought this topic back because it sounds like something the BC ought to be caring about but he is yet to hear any volunteers that would analyze the Westlake report and determine whether the BC would like to comment on that.
  - ❖ The comment period ends October 5.
  - ❖ This would wire quick read, what Steve brought up is Page 8 of the Report, it particularly talks about things the BC has brought up in the past.
  - ❖ Steve called for volunteers on this topic.

ACTION ITEM: Elisa Cooper volunteered to draft this comment. Marilyn Cade will send Elisa a list of members who were highly involved in this topic for Elisa to reach out to.

- gTLD delegation and re-delegation user instruction
  - ❖ Steve has not looked at this one to determine how relevant it is to the BC but the first half of the comment period closes October 1.
  - ❖ Steve did not call for volunteers on this topic just yet since it is not something he believes is critical to the BC but it may be.
- Geographic Indicator Debate:
  - ❖ This issue was brought up on the last two policy calls.
  - ❖ This came out of a decision of the GAC who vetoed Amazon in Patagonia and J Scott Evans of Yahoo started a discussion thread on this.
  - ❖ There was a vigorous discussion within the BC mail list, we resolved in our August call to draft a letter and J Scott, Stephane and Sarah Deutsch were the ones who volunteered to help draft such a letter for consideration of sending by the BC.
  - ❖ There isn't a public comment period on this so it would just be a letter.

- ❖ Unless Stephane, Sarah, J Scott or others have something to add this one is still an open item.
- • <u>Standardized contract for URS providers</u>:
  - ❖ Phil Corwin brought this issue to the BC's attention after Durban.
  - ❖ Phil drafted a letter which Steve reviewed and then circulated to members on the 4th of September and Steve allocated the full 14 day member review period.
  - ❖ Marilyn had given some comments which Phil has reflected in his latest draft, Gabi and Celia who aren't on the call simply suggested to Phil that we ask for public comment period.
  - ❖ Steve saw no other comments or objections from BC members.

<u>Phil Corwin:</u>

- ❖ Thank you Steve and thanks BC members for addressing this issue.
- ❖ The BC has long been on record for a standardized and enforceable agreement for UDRP.
- ❖ Providers, URS providers have a contract - it's not much of a contract, it's a two-page MOU but it's something. This is about a report that ICANN put out the day after Durban basically taking a very strong, clearly staff generated position that they were against any kind of contractual arrangement with UDRP providers in making the argument that it somehow would diminish their ability to discipline those who went off the reservation in one way or another. And incredibly explain the difference between contracts for URS providers and UDRP by saying that URS was not based on a policy which is contrary to logic and to history.
- ❖ So the letter basically questions the process by which this status report was generated and Phil asked some questions about it. Phil did a comment on just about all of Marilyn's changes and added back in a reference to the Board Governance Committee statement in May that was in the context of Trademark + 50.
- ❖ Gabi and Celia had suggested we ask for this document put out for current public comment now. Phil can add a sentence requesting that it be put out for comment now if that's the will of the BC. But otherwise it seems to be acceptable to the constituency and ready to go.

<u>Steve DelBianco:</u>

- ❖ Steve asked Phil to make a change to the third paragraph of the letter where there's a sentence that says the BC position was most recently reiterated in our comment on the application of the Arab Center for Dispute Resolution.
- ❖ Steve noted that the BC did not just comment on it, but were expansively pushing for the need for standardization but also endorsed ACDR.

❖ Steve believes the word "commented on" should be changed to reiterate in the BC's comments where they endorsed the application of the Arab Center for Dispute Resolution.

- Red Cross and Olympics issue
  - Steve noted that the only item remaining concerns the Red Cross and Olympics issue which Zahid Jamil is very keen on as well as Marilyn Cade.
  - A working group in the Council has been hard at work on this issue for several months as a cross community WG.
  - What to do at the top level and second level for both Red Cross Olympics and other inter-governmental organizations and non-governmental organizations so that IGO/NGO acronym is the shorthand for the work of this group.
  - It started with the notion that the GAC insisted and the Board agreed that things like Red Cross and Olympics and variance on them in different languages were off limits at the top level and that they would be entitled to protection at the second level.
  - That was expanded by a call from governments to expand that to cover lots of - several hundred Internets - inter-governmental organizations or IGOs and non-governmental organizations.
  - The challenge that that presents is that there are many acronyms, (MODRE), (CARE) - there are several acronyms that are used in the business community that would end up being off limits if we followed the recommendation that came from these groups because their recommendation was to give them reserve word status - reserve word status.
  - So one BC member, Zahid Jamil, was keeping an eye on this group but did not attend very many meetings and the BC didn't have a voice in the working group.
  - So the BC did not endorse or support in any way what the working group did.
  - The BC will, like everyone else, see the report when it gets published for public comment which should happen today.
  - Steve will circulate the draft to all BC members. Steve has updated it with recommended positions for the BC to take on all this and he discussed it with Elisa Cooper.
  - Steve encouraged the rest of the BC membership, Marilyn Cade in particular, to comment on whether they are on the right track with an eye towards the BC, very quickly weighing in with their position.
  - The BC was unable to do so in the timeframe requested by the working group, so the BC will take their time - 14 days – but Steve noted he might send a note to BC members about this in the next three or four days, as soon as it is posted for public comment.

5. Conclusion – Elisa Cooper

Elisa Cooper:
- Elisa thanked Steve for the tremendous amount of work he has completed in the last couple of months despite the challenges faced when trying to get these comments posted.
- Elisa asked members if there were any other issues they would like to raise or issues to cover on the next call. No input was given from members.
- Elisa summed up the key action Items and concluded the call.