

**ICANN**

**Moderator: Gisella Gruber-White  
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10:00 am CT**

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

((Crosstalk))

Ron Andruff: Good morning, this is Ron Andruff speaking and I'm sitting in for Steve while he's busy on another activity. He'll be joining the call approximately at eleven ten or eleven fifteen. So he had asked that I kick things off for everyone today.

So I'd like to thank everyone for joining the call, and we're going to do a roll call in a moment and we can also name our affiliations with which companies or associations we're members of. I'd also like to let everyone know the Adobe Connect Room is open and any (unintelligible) around...

Benedetta Rossi: Thank you.

Ron Andruff: ...with the call time and so forth, you should see the Adobe Connect. So I would encourage everyone who can, join the call on the Adobe Connect to please do so.

So Bene, if you could take the roll call please?

Benedetta Rossi: Yes of course Ron. I'm sorry I was on the Adobe Connect.

So on the call today, this is for the transcript. This is the BC Members call taking place on the 8th of May 2013. And on the call today we have Ron Andruff, Andy Abrams, Janet O'Callaghan, Marilyn Cade, (Brad Gillen), Yvette Miller, Gabriela Szlak, Philip Corwin, Linda Kinney, Chris Chaplow, Martin Sutton, Richard Freidman and Camille Stewart.

We have apologies from Elisa Cooper, Stephane Van Gelder, Angie Graves and Jimson Olufuye.

Thank you very much Ron, and over to you.

Ron Andruff: Thank you very much Bene.

So as I just mentioned I'm sitting in for Steve. So we're going to start by reviewing the elements of the last call that Steve sent through the summary on. So Bene, if we can go through the first slide that would be helpful.

So yes - sorry. These are the various elements that we started to discuss last week and Steve was kind enough to put together a list of the various elements that we talked about in the first part of the call. I'm actually looking at the slide as I'm speaking right now.

Bene, I'm wondering if you can go to the second slide - the next slide please.

Okay, so these are the - again, captured by Steve as a result of our call. What we want to do now is just kind of review the various elements that were discussed and make sure that everyone is on agreement on that.

This first paragraph speaks about the introductory comments, and Andrew has been very helpful in helping me draft those and we submitted those to Steve. I imagine that they will be presented to the group in the body of the text that will be developed. We will move to the next slide.

Okay, so we're now talking about the elements in 1B in particular. And these were the various aspects that the GAC rose about issues with and they wanted to make sure that these elements would be captured as we move forward. And there was discussion, and I think we might see it on the next slide, but on points one and two, we believe - I'm sorry, on the point two, the terms of reference, the terms of service, the element Number 3 was to be included in the terms of service in our previous discussion.

Bene, can you look at what the next slide looks like just to see where we are? Okay, so these are commentary on standards. So if we can go back to that other slide, I'm going to work from the email that Steve sent me.

And basically what we're talking here about are the safeguards in 1B. And we talked about the verification WHOIS a couple of times a year, the terms of service to prohibit malware and so-forth, registry to periodically check the domains for security threats. That was the question. How could the Registry actually do those kinds of things and whether or not that would be something that would be too much of a burden on the Registry? So perhaps that should be included in the terms of service.

Then we talked about the inaccurate WHOIS element and point Number 4, point Number 5, handling the complaint mechanisms, and Number 6, ensuring immediate consequences including suspension for inaccurate WHOIS. So those were what was called for by the GAC.

Now in the following slide is what the BC safeguards for all TLDs should look like as we discuss them.

So I'd like to open the floor with any other thoughts with regard to these safeguards, (unintelligible) what we had just discussed on the slide before. Are there any issues or changes or thoughts people would like to bring to the discussion?

Marilyn Cade: Ron, it's Marilyn. I would just like to make a comment.

Ron Andruff: Please Marilyn, go ahead.

Marilyn Cade: So I know sometimes BC Members have multiple hats to wear. But I notice that Elisa reminded all of us that we're taking the BC user perspective even if we have other issues that we would work out in some other setting, not within the BC.

Of the safeguards issue, the overall safeguard issue that GAC is asking for, I just wanted to understand and I apologize. I read the transcript but I wasn't able to be on the call last week.

The BC has broad support for the role of the GAC in addressing public interest safeguards. So is there anything that we should be reflecting at perspective into - for specific comments that we make?

I mention that because I've seen a couple of comments from a couple of members who think the GAC advice is creating new ground. I personally don't think that's accurate but happy to talk about it if needed. But I think the BC position up to now has been fairly clear that would lead to general support for the call for safeguards in the public interest. And I just wanted to be sure I understood where we were on that.

Ron Andruff: Thank you Marilyn, and in fact, we did discuss that on the last call. And for those who have been around ICANN for a long time, this tension between GAC and the ICANN community is quite well known or at least more understood.

For those who are joining us more recently it's a more tricky subject because the question is, "Why are these people weighing in on such a late hour?" What I explained in the last call was that the GAC circle is turning - back wheel is turning at a different rate of speed than the ICANN wheel is and that we're trying to find a synchronization, a harmonization between those two. And I think people are understanding on that principle.

But the GAC, no question about it, is critical ally of ours and that's what keeps ICANN in our hands, as the ICANN community as opposed to the ITU's hands. So your points are well taken, and in fact, they've been included in the introductory paragraph that Andrew Mack and I put together. So we'll all see that in the draft coming up shortly.

Steve DelBianco has joined the group and he's done a fine job of leading this, and so I'm going to hand that ball back to Steve and stand back from this role. Steve, it's all yours.

Steve DelBianco: Ron, thanks very much for doing that. And so Benedetta, on the screen you have half of the summary we did of what BC Members said last week.

And to your point Marilyn, this is all about specifics. The general stuff will be in the intro, I'll be circulating that for BC Member review. The purpose of this call is to finish the specific things we'll say about the specific safeguards that are posted.

And so Benedetta, go to the next slide and I'll watch for hands if there's anybody that wants to correct the record - correct my minutes on things that the BC Members are saying.

You'll notice that the BC is not asking questions of the GAC, but rather we're stating opinions about how something should be interpreted, how ICANN should react to GAC advice. And we'll probably note that BC has varied opinion on some things, but we're very unified on many other ones.

Okay, I don't see any hands. Let's proceed to the next section.

In the next section which I circulated earlier was the BC commentary on safeguards that would be for Category 1, Top Level Domains. If you could go to the next slide Benedetta.

Category 1 which categorizes things that require consumer protections or sensitive or they were in a regulated market. And the GAC put forth five safeguards for them.

And again, there's a long list of top level domains in Annex 1 of the GAC, and that's on Page 9 of the GAC Advice that I've linked to. It's things like, you know, Dot Music, Dot Capital, Dot Cash, Dot Savings, Dot Trading, Dot

Green, Dot Toys, Dot Capital. A lot of different things that the GAC is including but it isn't an exhaustive list. They may decide to add others.

So with respect to that list, these are the five safeguards GAC's insisting on. So Benedetta, the next page indicates what BC Members said a week ago today about this.

There was pretty widespread support that BC Members think that Item 3 on this list that a registry had to require that a registrant collecting sensitive health or financial data have reasonable security measures. That we are going to advise ICANN that should be part of the Terms of Service, that the registry requires the registrants to check the box on. But we do not think that registries should take on the burden of actively policing every registrant Web site and conduct to see whether they are in fact using appropriate data security practices for their Web site. That takes way beyond the purpose of being a registry.

We'll lock that in, and that's mainly on what's on this page. Any comments there? Next page Benedetta.

This is the items that we want to discuss today. And we're at what - it's a quarter after the hour so we've got 45 minutes to cover all of these remaining items to be discussed as well as deciding whether we want to tackle singular plural and a few of the other items that aren't explicitly posted for general public comment.

So now we're on the category of additional safeguards for these Category 1 Top-Level Domains that are specifically in the area of finance and gambling, professional services and environment health, fitness and corporate identifiers. So for this group, the GAC Advice was to add three new safeguards that the

registry had to verify and validate the registrant authorization and their charter, whether they had a license or other credentials.

So if in fact it's a financial and I'm looking to be a lender to set up a Dot Loan top level domain, the GAC advice here is that the Dot Loan TLD operator would have to verify and validate whether anybody buying a second level domain was appropriately registered and licensed and chartered to be in that industry. And that the seven and eight (unintelligible) is sued because if there was doubt about those credentials, the registry would have to consult with supervisory authority - and it doesn't say whether it that means the name would be allowed to be delegated while they're checking. That might be a point we could discuss today.

And then 8 goes a little further to say that even after that initial verification of your licensing that they would have to go a step farther and do period checkups to make sure your license is still good.

So let's take a cue about whether we think 6, 7 and 8 are appropriate for TLDs in finance, gambling and professional service. Looking for some hands.

Marilyn Cade: And for those of us who can't yet get on Adobe - it's Marilyn - I keep trying. Can I get in the queue too?

Steve DelBianco: Of course Marilyn. I have Marilyn in the queue and I have Phil Corwin. Go ahead Marilyn.

Marilyn Cade: Oh thanks, and I will try to get on Adobe in a moment.

I would just like to talk for a minute about the regulated industry or areas of sectors where government provides a consumer protection role, and so those



include looking after the interest of children. And I will just say, in the United States for example, when Dot U.S. was allocated, Dot U.S. was required even though that was over the objection of the industry and other experts, Dot U.S. was required to have a Dot Kids Dot U.S.

So if governments obviously think that anything that has to do with children, and particularly with luring or fraud or other problems could occur, does involve the interest of governments. And many of the developing countries are incredibly considered about the child-online protection issues.

So I just want to be sure we're also thinking about those consumer protection aspects where government very clearly sees that there's a public interest aspect to their involvement. And I would put the Dot Kids related strings into that.

On the regulated industry, to me it makes sense that consumer groups that are concerned about regulated industries and about how they affect consumers are engaged. But I'm trying to really understand what we might say that would be helpful to the GAC in how safeguards are developed, implemented and monitored. Not just by potentially ICANN, but also potentially by advisory groups similar to what Dot XXX set up as I-4.

Steve DelBianco: Thanks Marilyn. Phil Corwin and then Ron Andruff. Phil Corwin, if you're on mute we're not hearing you.

Let's move on to Ron Andruff.

Phil Corwin: Steve, can you hear me?

Steve DelBianco: Okay Phil.

Phil Corwin: Sorry about that, my audio was on muted.

Again, speaking on my personal capacity here, I just want to point out that all of this from an operational view point and let's take gambling as an example because that's one where it's an activity that is completely legal in some jurisdictions, not legal in other jurisdictions and the Web site can be viewed from almost anywhere in the world.

So it just raises the issue of - as the practical matter, when it says the registry should consult with National Supervisory if there are any and validate registrants credentials and periodically check on them, I would think as a practical matter this would mean solely in the place where the registrant is domiciled and is conducting the bulk of his activities. Otherwise you would be asking registries to police cross-border activities that raise trade issues, law enforcement issues, all kind of issues that I don't think we can expect registries to get into. So I just think there should be some clarity about that matter.

Steve DelBianco: So Phil, I've written down that you're advice to ICANN would be to only require the consultations and validation?

Phil Corwin: Yes basically, if a registry is in one of these regulated industries and is a licensed and legitimate player...

Steve DelBianco: Phil, I think you're point of view...

((Crosstalk))

Steve DelBianco: But it would only be applicable, you're saying, in the illegal regime where the registry is based? Did I get that right?

Phil Corwin: Yes, where the registry - I think in this case, you know, you might have a registry in the one country and the registrant is based in Antigua where gambling is legal and they're chartered by Antigua and inspected by them. And I think you have to look to the registrant's place...

Steve DelBianco: All right, so if I register Home Equity Dot Loan, and Dot Loan was a registry operated in Canada, if I am a U.S. registrant for Home Equity Dot Loan, then the registry would only have to check with the U.S. law to see if I were required to be licensed.

And before we flash that out, let's remember that last Wednesday Phil, we discussed the fact that all applicable laws shows up all over the place in the previous eleven safeguards. And applicable laws are less ambiguous in the GAC Advice. It may well apply to where the user is sitting when she goes online to Home Equity Dot Loan. It may apply to the registrar and it could apply to the registry or even the registrar that took the money and booked the domain registration.

So applicable laws, we said last week, was very ambiguous and sometimes that ambiguity helped the community; it's an issue.

So Ron Andruff.

Ron Andruff: Thank you Steve. I wanted to follow on Phil's comment. You know, applicable law in which you were just saying is a tricky one. But - so maybe we want to be looking at applicable law and industry standards. Industry standards often...

Steve DelBianco: In which country? The registrar, registry, or all?

Ron Andruff: All. So it's industry standards in all cases because what's happening is we know that the Internet is outpacing law, the courts, and all of the various issues that were in a standard brick-and-mortar world don't necessarily apply to the Internet. And unfortunately, a lot of different elements have not created a legal regime or a legal structure to meet the needs of the Internet. So I think that's why applicable law coupled with industry standard would make a lot of sense. But I'm just putting that thought out there that (unintelligible) from Phil.

But what I wanted to speak to, and Marilyn is not on the Adobe, but as she was talking about consumer protection authorities and consumer advocacy groups and the issue of whether or not they should be - or how do we best address the issue of the safeguards.

And I think one of them - I just put the language into the Chat that explains a little bit about that how we could be bringing these different, what are affected parties, onto an advisory board for these various TLDs that have this kind of impact, to make sure that in fact we don't have bodies coming in and taking over a name and then effectively legislating from that space and the impacted parties not having a voice.

So if we bring the impacted parties to an advisory board I think that would be a very good safeguard to protect the effected parties and have them have a voice at the table with the registry in these particular areas. So that's what I wanted to bring to the table. Thank you.

Steve DelBianco: Yes, would you just clarify that - so you would expand it to be not just chartering and licensing as required by law, but chartering and licensing that's recommended or required by industry standards?

But I ask you the key question is which regime does the Registry have to look at? The regime where the registry is based or the registrar with the registrant or all the above to cover users around the world? What's your view?

Ron Andruff: I would say all of the above. And I would say all of the above because in various places there will be various industry standards but they need to be looked at as well as applicable law. The applicable law might be so outdated that it makes no sense in the fact - so let's take Amsterdam for example.

In Amsterdam, it's illegal to buy marijuana. But I can ask any cop on the street, "Where can I find a marijuana café," and he'll point me to it. And he's not going to arrest me if I go in there and come out having smoked a dobbie.

The point being here is that applicable law is one thing but the industry standard is another. The industry standard says, "We turn a blind eye to that situation." So all I'm saying is if we couple applicable law with an industry standard, then I think that we, on all cases, then we might be moving in the right direction.

If we just say applicable law...

Steve DelBianco: I believe the GAC (unintelligible) that, as I've summarized, the GAC Advice covers it because of the notion of National Supervisory Authorities. And they way they articulated it is a little broader than just the actual law, but whether or not there is, you know, an industry equivalent.

So I think they were going there, but it's quite remarkable to have the notion that if somebody were going to run the Dot Loan TLD in an open fashion - because this applies whether you're open or restricted by the way. So if somebody were to run Dot Loan in an open fashion, the same way they run Loan Dot Com today, are you saying the BC would advocate that Dot Loan couldn't really be completely open. It would have to check that every single registrant, anybody buying home equity dot loan or anything to the left of the word Dot Loan had to have credentials applicable to the law of every nation on the planet? And any industry self-regulatory body, on the planet, that governed the advertising of loans?

And the implications - so let those implications settle in right now because this is heading down the path of fundamentally changing the responsibility of managing a domain name system that just simply resolved names.

I'm all for consumer protection and getting rid of crime and fraud on the Internet. Let's just be careful what we wish for here.

Ron Andruff: I agree Steve. That - you really underscored exactly the point. And it is where do we stand today with the Internet as we know it and what does the Internet look like in ten years from now. A lot of that future is determined by what decisions we take now and how we approach this. So I think you're hitting the nail right on the head.

And I'm not interested in registries becoming law enforcers, but I think that there's a middle ground here. And I think if we can find appropriate language that would be very helpful. Thank you.

Steve DelBianco: Well please consider whether appropriate language would be to require a registrant to check a box to say that they know and understand this, that they

are subject to all applicable laws and regulatory bodies or activities of the registration they are about to make. And that's not an enforcement function, it's a notification function.

So in the queue I have Martin Sutton.

Martin Sutton: Thanks Steve.

Steve DelBianco: Before you do Martin, is there anyone else on the phone who wants to get into the queue?

Marilyn Cade: It's Marilyn. After everyone else speaks, I would like to come back in. I think hopefully I'll be on Adobe by then.

Steve DelBianco: Anyone else? Great. Go ahead Martin and then Marilyn.

Martin Sutton: Thanks Steve and I appreciate your last point. And just to be aware, I'm obviously an applicant for Dot HSBC, but this is with my BC hat on and looking at this in a practical way.

And some of the comments all ready reflect this is - to some extent, how the hell do you implement this on a practical basis? So I think there is some concern when you look at those that are going into running some of the registries for a distinct industry and have had made policies or represented policies within our application that support a community, for instance. That I just wonder if some of the GAC comments here are actually problematic in that respect because, you know, it's hard enough getting an industry to come together in one country let alone globally. This could, actually, prevent some of these registries from taking off.

So I think there's got to be a balance between the fact that some of these will have all ready embedded within their policies and criteria of running the registry, distinct sets of criteria that will be supportive of that industry that will protect consumers. And that needs to be certainly weighted against some of the other applications.

If they're in contention sets or certainly supportive of those that are going forward with an application on their own uncontested, but have the various levels of policies in place to protect consumers and protect that industry.  
Thank you.

Steve DelBianco: Thanks Martin. I think of Dot Bank which I know you were involved in, and I wonder if a TLD is promising to consumers and registrants that will only admit duly validated and authorized and chartered entities to the left of the dot, then that's a promise they ought to be held too. And we and I...

Martin Sutton: It is. And Steve, I think you're right there.

((Crosstalk))

Martin Sutton: Just to bear in mind that we're talking global here and we probably haven't got global bodies in place that can actually do the adjudication, if you like, or review periodically to make sure that they are running in that way. We will rely on the community around ICANN to do that.

Steve DelBianco: Okay. I have in the queue, actually, Phil Corwin and Marilyn. And since you both have all ready gone, Marilyn you go first and then Phil.

Marilyn Cade: You know, I appreciate what you just said Martin. But I can't really say that I fully can support what you just suggested because offering to operate a gTLD



is proposing to operate a - it's a generic TLD but it's offered as a global resource.

Now if it proposes to be something like DotAsia which is only regional in scope, and defines in its application that narrowness, I think that's one thing. But if applicants are saying they are going to be a global resource, then I think even if there's not an international regulatory body for some of these industries - and I agree that there's not - there are mechanisms to develop self-governance models that bring together industry groups and NGOs and others to help to define what that governance would be.

And I think the GAC has given us an interesting challenge. If we don't step up to self-governance, we could be faced with national level governance which would, I think, be really hard for both registries and registrars to comply. ISPs today in some countries still have to get authorization or licenses on a national basis, and it is very inhibiting; mobile operators do as well. Right now, that doesn't affect the gTLD sector.

So if we could, as the BC as users, propose a solution here to more of a self-governance model that involved the industry proponents and NGOs, civil society, public interest groups, to meet what the GAC has asked for, I think that's a better solution. Just saying there are no global regulatory authorities, I don't think that's going to fly with the GAC.

Steve DelBianco: So is your recommendation that the BC recommend to ICANN that ICANN standup a global regulatory body to fulfill this advice?

Marilyn Cade: I didn't say that at all, so I'm a little confused.

Steve DelBianco: Yes, I don't have any clue what you just asked the BC to recommend.

Marilyn Cade: Okay, so I just said that I agree that there are not global regulatory authorities for regulated industries. But that there are private - that model of self-governance could include participation from NGOs and industry proponents from that sector. And that just saying there is not global regulator for Dot Insurance is probably not the right answer for the GAC.

Steve DelBianco: Right, and what do you think our answer should be? Because we're at the point of defining the BC's comment to ICANN and not, you know, and so that's why I'm looking for specifics Marilyn; that's all.

Marilyn Cade: Self-governance models include participation from industry players but also NGOs, civil society and governments. And self-governance model that an industry puts forward could be an advisory group with (Keith).

Steve DelBianco: So you're proposing the BC would recommend that ICANN standup a new global...

Marilyn Cade: No, no, no, no. I'm suggesting that the applicant could potentially, if you're in an industry sector like Dot Insurance - and I'm just picking on that one because it seems a little more neutral than some of the others - that the proponent of the registry should propose something like this to meet their public interest requirements and satisfy the GAC Advice. Not that ICANN would do it.

Steve DelBianco: Got it, got it. So you're proposing to ICANN that applicants could set up their own - sorry, registries, not applicants at this point. Registries would set up their own global advisory board modeled on an industry self-regulatory group to fulfill the GAC Advice.

Marilyn Cade: Right.

Steve DelBianco: But Marilyn, are you supporting that ICANN should follow GAC Advice and require these TLDs to verify every registrant in every legal regime that may have applicable laws or self-Reg bodies which was, I think, Ron's position. I just want to see whether I check the box next to Ron or is with Phil?

Marilyn Cade: You can check the box by Marilyn Cade that, yes, if you're in a regulated industry, I think you have to do that.

Steve DelBianco: Okay. So if I offered a newsletter about good interest rates, I called it Interest Rates Dot Loan, I bought it in Dot Loan, as a journalist I might not be required to be licensed. But would this say that only licensed lenders can get domain names in Dot Loan?

Is there a way that this (beat-pete) can (cabin) this off? Because I would point you folks to the first line of the GAC Advice on this which is one of the few times in the GAC Advice that they use the word may and not must.

In the first line of the GAC Advice for these three items on the screen, is may. It says, "In addition, some of the above strings may require further safeguards." And the safeguards are all phrased with the word must.

But do we think that GAC Advice is that every registrant in Dot Loan must be licensed and chartered or that only those that are doing activities that fall within applicable law would have to be licensed and chartered? So lenders would have to get licensed and chartered, but not somebody writing about interest rates.

I'm going to propose that as the BC answer. That we take advantage of the may to cabin this for people that set themselves out to do an activity that's governed by applicable laws or self-regs.

We have Phil Corwin and Ron in the queue as well.

Phil Corwin: Yes, thanks Steve. And just to point out some of the intricacies of this, the actual language of the GAC Advice is "some of the above strings may require." So even within those market sectors, the GAC is not saying all of them. And then they tell about a limited subset of the above strings.

So for example in the financial area, I think the advice is ICANN is to give serious consideration of which of these require it. For example, perhaps Dot Bank because it suggests a regulated institution should be subject.

But you brought up Dot Loan. There's all kinds of entities that make loan, and should they all be required to be regulated to chartered institutions. For example, would you (unintelligible) Kick Starter Dot Loan? Kick Starter is an organization very well known now that raises money to loan for new innovations, if not regulated, I believe. It's certainly not a bank and yet there might be a good reason for them to have a domain at that TLD.

So I'm not sure I'm giving particular advice but just pointing out the intricacies of deciding how this would be implemented if ICANN is going to say, "The general principle is good, but we've got to make some decisions about implementation here."

Steve DelBianco: Well Phil, interested to hear the BC members on this. Does the obligation following the safeguard advice, does that obligation only occur when the TLD professes to be restricted to members of that class. So Dot Bank sells itself

and makes a promise to the world that it's only going to allow chartered registered banks to the left of the dot. Then they would bare all these obligations and we can enforce - and we would suggest ICANN must enforce them globally.

But if in fact a TLD isn't professing to be that way, if it's really just a billboard Dot Loan run by donuts, for instance, is open to anyone and everyone. Do we think that the mere use of a string that's included on the GAC list carries the obligation of only allowing chartered, or is it something that registry professes for themselves?

We'll have to take a cue on that particular item if we could so we can start to narrow down what it is the BC should say here. Ron Andruff?

Ron Andruff: Thanks Steve. You know, coming back to your point about licensed and chartered, and I think the - and the (unintelligible) reflects back to what Martin was saying and the question, is there a global body that can, you know, police this and so forth. I think we're maybe contemplating a couple of things here.

But if I look at it at the point of view of licensed and chartered using the example you used saying with the journalist who happens to write about loans, you know, would he have to be licensed and chartered, the answer to that question really falls under the registrant eligibility policies. That means every registry is going to establish registrant eligibility policy to say, you know, "This group of people can have a TLD in my space that I'm managing."

In that case, what we need is a proper advisory board that incorporates all the members of that community to then make this decision on fair rules for who can register and who cannot and under what conditions.

So for example, if in fact I'm an institution in the banking space or the finance space, then I need to be licensed and chartered. If I'm a journalist, I don't have to be. And I think that falls under the eligibility of policies.

And the only ones that can make those eligibility policies are representatives from the entire effected community. So that's the point I'm trying to make here is that if we had that protection in place, that safeguard is there to allow the registry to establish its own rules as to who can have that TLD and under what conditions.

Steve DelBianco: Thanks Ron. I'm going to check the box that you're agreeing with my proposition, and it may have been your proposition that I simply reworded. That this is optional, that if the TLD sets itself up to create a restriction, a registrar restriction policy, that only then does it fall into this safeguards. And then you're adding on that there also should be an advisory group with multi-stakeholder representation that would help to resolve the details behind that.

Do I have that right?

Ron Andruff: I would start with the fact that there must be an advisory body that incorporates the entire effected community, and from there you can do those things.

But there has to be that advisory body that all affected parties are on that advisory body because that's where the policies are going to be drafted. And that will stop anyone from trying to create legislation through their TLD.

Steve DelBianco: So are you suggesting, since financial is a category here for the GAC, that if any of the TLDs -- any of the 30 TLDs they've listed under financial -- decides to put out a restricted registrant policy, that then they would have to be the ones responsible for coming up with a advisory group for the financial industry.

Ron Andruff: Right, I think all of the entities that the GAC lists as - where you made the distinction may instead of must, I'm saying that the wise thing to do here is all must have an advisory body that's incorporating the entire community. And in that way, we will resolve all of these little issues along the way because you'll have all voices at the table to make those determinations.

Steve DelBianco: All right, I've got...

Ron Andruff: Right for eligibility.

Steve DelBianco: Got it. So you're saying all categories would do it.

Ron Andruff: Yes.

Steve DelBianco: Thank you Ron.

Ron Andruff: Thank you.

Steve DelBianco: Martin Sutton.

Martin Sutton: Hi, thanks. Just thinking back on this, so from a business perspective and I'd be happy to take Dot Banks as an example here, with the restrictive policies that the application has pushed through, I would think that, as HSBC, a low

risk environment for me to have to worry about are they registering a domain or not even having to register a domain.

Always my concern is the open commercials. The one thing that I'm just worried about here is that we could be putting far more onus on these categories on the back of GAC Advice which is fairly late in the day when they've all ready had to go around and try and engage with regulators, associations from their industry groups which is not a (unintelligible) in itself just to try and get that engagement and off of that.

So again, going back to practical terms, this seems to be very heavy handed on those applicants or registries that are proposing to be very restrictive in what they do. So I do quite like the Dot Bank example because there is certainly emphasis in there in terms of what can be registered, who can register, and therefore it's highly restrictive. Therefore, the risk to me is very low.

Does it need to have a global body to oversee it? Well I think the idea is in some of these is to actually engage. But until they've got it, that engagement may not exist. So perhaps some of the GAC Advice needs to be tempered with the idea that this has got to be over a period of time rather than prior to any acceptance launch of a TLD.

The other point on a practical element as well is who the hell decides what falls into this category? Because we're going to have all sort of variations, language variations, interpretations, who is going to be the judicator to say what string falls into that part. Just my two pennies worth, thanks.

Steve DelBianco: Did you - I know what you said about the restricted TLDs where you're not as worried. But does that mean that HSBC, as a business registrant, is more



worried about Dot Loan as an open TLD, and that you would want Dot Loan as the open TLD? To only admit...

Martin Sutton: Absolutely.

Steve DelBianco: You would want Dot Loan, the open TLD, only admit chartered lenders?

Martin Sutton: Well, what my main point there Steve is that there is some market drivers on all of this. So I would expect that there will be some concern with anything you find in certain extensions versus another. So you will have a more authentic and trusted route through to say a Dot Bank versus a Dot Loan as an example.

Steve DelBianco: Today that's a choice that the applicant made. Dot Bank made a choice about being restrictive and many of the applicants for Dot Loan said they would not be restrictive. So those choices were already made, and I'm just trying to figure out if the BC wants to respect those choices in the market or force them all to only allow chartered and licensed registrants.

Martin Sutton: So Steve, just - that was my final point was how the hell do we decide which strings fall into what part? I think at the moment we're relying on applications going through this round, putting forward a best case for their application. And those have got to be judged still and we've got to see the output from all of those.

But I don't yet see any clear visible way of actually interpreting a lot of these in terms of the GAC Advice.

Steve DelBianco: Got it. I still don't know where you stand on whether it's elective by the registry or mandated for everyone in the category. Elective or mandated?

Martin Sutton: Elective by the registry.

Steve DelBianco: Got it, thank you. Linda Kinney and then I have Andy Mack and Andy Abrams.

Linda Kinney: Yes, I just wanted to address specifically the intellectual property related strings. And I think under that I'm speaking on behalf of the motion picture association by the way.

And I think in those situations where you have IP rights at risk, and there maybe some illegal activity and use of the domain of sort of pirating content, etcetera, it seems to me that those are - that's a special category of strings. And in that category there has to be some sort of mandated group or requirement.

One of the things that GAC sets out is to establish a working relationship with that relevant industry and then figure out through that how to develop a strategy to mitigate possible risks of illegal activity.

And to me, in that particular group which the GAC identified, I think it needs to be required that everybody follows whatever the industry advice is.

Steve DelBianco: And Linda, let me clarify that that's not part of the current topic because intellectual property isn't part of the current safeguards 6, 7 and 8 on the screen. It's what we discussed earlier on the call and last week. So the intellectual property categories are responsible for the five safeguards that we discussed last week.

And one of those safeguards is that they have to have contacts with the self-regulatory bodies and law enforcement.

So I'll just note that you support many of the BC Members who last Wednesday supported GAC Advice on some of the safeguards that are on Page 8 that we all ready...

Linda Kinney: Okay, yes. Sorry; I apologize about that. I was unable to make that call, but I did want to support that advice.

Steve DelBianco: Got it. So you're supporting that it is I circulated in the notes earlier.

Linda Kinney: Yes.

Steve DelBianco: So turning back to these regulated sectors - and IP is not one of them; they are not listed here. We still have in the queue Andrew Mack and Andy Abrams.  
Thanks Linda.

Andrew Mack: Is it me Steve?

Steve DelBianco: Yes Andrew.

Andrew Mack: Okay, thanks. I mean I'm generally pretty supportive of the desires that the GAC has. I'm wondering about the practicality of it, if we're trying to do a lot of mandating. I'm thinking here from my perspective of someone who works a lot with emerging markets.

Who's going to be - who's going to determine all of the credentialing of all of this? And since credentials are different from country to country and change

over the course of time as people come in and out of the system, how are we going to do that?

I also like the idea that Ron and Marilyn were supporting in terms of trying to get, you know, an advisory group or something like set up. But again, I'm a little concerned that who would be on that group, how would big would it be?

I mean just the experience that we had trying to pull together the working group on (Jazz) and some of the other things that I've been associated with, that's non-trivial complex, I'm just wondering what the practicalities of it? I wondered if anybody had any good suggestions.

Steve DelBianco: Andy Abrams?

Andy Abrams: Hi Steve, thanks. Andy Abrams for Google.

With respect to your question about elective or mandated, I think it really depends on the string. I think for strings that directly relate to regulated industry for instance, Dot Bank, we've been talking about that; Dot LOC, for instance. I am fine with having sort of these mandated extra safeguards.

But I'm seeing a lot of strings on this list that, you know, if they're pure open and they're something like a Dot Air or Dot Diet, I just don't see them in the same category. So I'm not sure how the GAC or how the ICANN board is going to parse.

But you know, maybe the default should be elective unless a particular string is directly related to the (unintelligible) industry. Or the registry has put that in their application that this is going to be a restrictive registry.

Steve DelBianco: So you would default to letting the restrictions be elective except for some of the 30 or 40 strings that the BC would say, Dot Loan for instance is not elective but mandated. Whereas say Dot Tax wouldn't be mandated, it would be elective.

Andy, are you proposing maybe in the next few days the BC try to come to consensus on identifying the strings that ought to be mandated. It could be done; we would need somebody to draft a list and get started on it. Or is that something that others on the call believe that the advisory groups would figure out.

Let's see what the BC can do to be specific here. Andy, anything else on that?

Andy Abrams: Yes, I think that would be more of an advisory group role as opposed to the BC role. But yes, I think that would be useful for some advisory group to try to (unintelligible) to different categories of whether they should be regulated or mandated regulations or not.

Steve DelBianco: All right. So I wrote default to elective on restrictions, and if you have restrictions you are mandated to check on every global government, every charter organization around the world for every registrant. But there may be other strings in this batch that would also be mandated to also allow chartered registrants.

And we would say that an advisory group yet to be made would determine which of the strings fit in. And we would probably have to explain in that comment that we don't think that the GAC's list - that everything on the GAC's list deserves a mandate.

Marilyn Cade: Hey Ron, can I - Steve, can I be in the queue just a minute. I've got to drop off but I just want to propose something - it's Marilyn.

Steve DelBianco: Yes go ahead Marilyn.

Marilyn Cade: I think we're forgetting because it wasn't that apparent, but previous community facing TLDs actually did this kind of validation. Dot Museum did, Dot Travel did, Dot (Crow) did. I'm not talking about the success, I'm just talking about the fact that both at a ccTLD level for many years, New Zealand moderated all of their second levels.

((Crosstalk))

Steve DelBianco: The fact that all the elective on the part of the registry. You believe they should all enforce...

Marilyn Cade: But Dot Museum, you know, there had been validation. Maybe before we think it's totally not possible, you know, we ought to think a little bit more.

I don't think the BC should be voting on what strings long in one category or another category. I think that would be too time consuming and not a good use of our time. But there may be some history here that we could learn from.

Steve DelBianco: And the first part of learning is that if a string sets itself out as only allowing chartered registrants, then I think the BC would be highly supportive of lots of safeguards about that because both registrants and users who are our sweet spot would rely upon the enforcement of those restrictions when they make investments on buying a name and building out their brand. And consumers rely on it.

I'll bet the BC could converge on that. But I'm hoping we would converge on saying that it's elective, that it's up to the registry. If they decide to be restrictive, then they've really got to be restrictive and it's got to be enforceable.

It's a different matter to say that if you happen to have won the string for Dot Cash or the string for Dot Fund that you have to change your entire application because you're not allowed to be open. You must be restricted to chartered registrants only. And that's a big step, not one the BC has ever taken before.

And I'm trying to make that the threshold issue before we decide.

Marilyn Cade: Steve, I hear you and I apologize. I am going to drop off. But I am going to say that we might not have taken that step before but I might disagree in the following way.

If a string is offering itself to consumers and registrants and it falls into a category that has expectations of government regulation or oversight or acting in the public interest like Dot Kids, I don't see how the business user constituency can ignore the concerns of the governments.

Steve DelBianco: Okay, there's no attempt to ignore. But do you think we should the government to say that if a string brings the expectations of a regulated space that all registrants have to fulfill the regulation?

Hope I didn't lose you there.

Marilyn Cade: No, no, I'm so sorry. I just, you know, I think most of you know that I have spent so much of my time dealing with the developing country governments in

other settings. And I'm very much aware of the concerns that some of the governments have that there be accountability in these new gTLDs.

Steve DelBianco: Right, but is it accountability for promises that the registry made, or accountability because they happen to have won a string that carries a generic expectation?

You said Dot Kids might be a string that brings an expectation of a regulated safe space. And if it does, no matter what the applicant said, they've got to run it like a restricted, chartered registrant-only space.

Are you willing to take that step?

Marilyn Cade: Well I am, but that's my individual point of view.

Steve DelBianco: Yes, that's a pretty different ICANN than the one we run today. But I'm okay with that. I'll write it down.

In the queue - Marilyn, were you finished? I didn't want to cut you off.

Marilyn Cade: No, I am and I'll just drop off in a couple of minutes with apology.

Steve DelBianco: Thank you. Anyone else in the queue? Andrew and Ron still have hands up. But we haven't finished yet. We're coming up on an hour and there are a couple more topics on closed generics. We may have to do yet another call.

So let's just finish out the queue on this category of safeguards. Andrew and then Ron.

Ron Andruff: Thank you Steve. Andrew put his hand down - this is Ron.



I just wanted to comment on, you know, you make the comment expectation of a regulated space should be restricted. My point was to say if it's a regulated space, there is no expectations or absolute.

Anything that's a regulated space, insurance, let's take pharmacy, let's take, you know, health and fitness - anything that's where you have to, you know, there's a regulated space and you have to get your licenses and so forth, that should be an absolute that these should exist in there.

If there's an expectation that it's a regulated space but it's not a regulated space, I think that's a demarcation line. If it's not a regulated space then it's a may. If it's a regulated space, it's a must.

Steve DelBianco: Okay. So Ron I appreciate that. We seem to be converging on something I can summarize in the notes. But cash back bonus is one of the three strings in financial that the GAC insists that the word Dot Cash Back Bonus - I don't know who the hell would register anything there.

But is that a mandated regulated industry in your opinion?

Ron Andruff: No, there's no (unintelligible) that regulates cash back giveaways and that sort of thing that I'm aware of.

Steve DelBianco: Got it. But if there were one government that did, does it fall under regulated?

Ron Andruff: I think that government would have to make its case to the GAC because GAC's all about providing a consensus opinion, and I think that's what I would - that would land in their box, not in ours.

Steve DelBianco: Yes, it's funny how the GAC does that. They say when we ask for clarification, they see our advice. And their advice is pretty explicit, that everything listed in financial is going to bring that.

We seem to be wanting to read the word "may" as liberally as possible so that there's some wiggle room that some of these TLDs would not be mandated or restrictive to chartered, but in fact leave it up to the applicant.

Ron Andruff: Yes, I mean for my part, I'm not trying to, you know, the most important thing is again, the beat that we've said many times. The BC is looking out for business uses perspective and in this case the end line consumer.

And so if it's a regulated space it's very clear to me. If it's not a regulated space, it's also very clear to me. And I don't think we should be trying to make definitions very people. I think we should just be drawing a very clear line.

Regulated we support. If it's not a regulated space, well, that's not a question. And I don't have any problem that we push back a little bit on that one.

Clearly regulated industries - I mean it's a big issue for most governments. And those things that fall into that gray area are probably not as important.

Steve DelBianco: Thank you.

Marilyn Cade: Steve, it's Marilyn. I am going to drop off, but we have Martin on the phone.

I think actually cash back loans might be regulated at a state level in the United States.

Steve DelBianco: That was my point. If one state or one government regulates that sector, does it fall under Ron's category of mandatory regulating?

Marilyn Cade: But doesn't Ron's - I'm sorry Ron. I'm going to call it the Ron test. Doesn't Ron's test of, "Okay, make your case to the rest of the GAC." If it's only one of you or two of you, it's up to you to get the other hundred.

Doesn't that fall into the - the cash back guarantees actually may be more regulated than perhaps than just in the United States. I don't want to put myself over if there's any expert on that.

But doesn't Ron's test meet that issue?

Steve DelBianco: I'm not sure. When I write it out, we'll have to see if it really does. But in the healthcare category, Dot Care and Dot Diet, Dot Fit, Dot Fitness, much harder case to make that those are regulated sectors. And yet the GAC Advice covers everything in the Dot Health.

So this is going to be a huge challenge. We're out of time on this hour and we didn't quite finish. I think we still need another call to cover the exclusive generics, previously known as closed generics. And so I will ask Benedetta to set up a call for the same time next week.

How many members on this call would be interested in having another call this Friday instead to wrap this up? I'm trying to be conscience of the deadline for the set of comments on this which is May the 13th.

How many members on the call? You can indicate by raising your hand if you are in Adobe or just shout out if you're only on the phone. We would have a call this Friday at eleven.

Marilyn Cade: I would rather do the call on Friday - it's Marilyn - because next week some of us will be totally consumed on WTPS and another issue.

Steve DelBianco: Thanks Marilyn. Do I see any hands yet? I see Ron Andruff as a yes.

Andy Mack: Steve, don't we have another call at eleven o'clock? Do I have that wrong? I've got a BC pre-cancel something.

Steve DelBianco: No, that's not happening.

Andy Mack: That's not happening?

Steve DelBianco: No, so that's a great slot. It's one of the reasons I'm jumping on this.

Andy Mack: Yes, yes. So it's an empty slot then.

Steve DelBianco: Got it. So Marilyn, Ron, Andy, me, Chris Chaplow. Phil Corwin, is your hand up to vote or to speak? He's vote. Okay, good.

Andy Abrams, since this is the exclusive generic category it would be good for you to be on. Are you able to get somebody on there from Google?

Andy Abrams: I'll see. Unfortunately, we're traveling back from our legal summit so I don't think I'll be able to make that time. But I can - we can talk offline, and I don't have a lot to say at this point.

Steve DelBianco: Great. All right I think that's critical mass. Let's do a call this Friday at eleven.

Benedetta, if you could send out a notice for that and we'll set that up and try to get this thing wrapped up on Friday. That only puts us to the point where I got to make some sense of this mess and put it in writing to get it back to you for sort of a review next week.

Any further comments on the call? Thanks everyone for being structured and disciplined on trying to get something specific. I really appreciate it.

Man: Steve, you have (Marie Fasilo's) hand is up.

Steve DelBianco: Go ahead (Marie).

(Marie Fasilo): Sorry. New system, can you hear me?

Steve DelBianco: I do.

(Marie Fasilo): Ignore me. I was just going to say yes, I'm around on Friday evening for me which is morning for you.

Steve DelBianco: That's great. Thanks (Marie).

(Marie Fasilo): Sorry.

Steve DelBianco: Not a worry.

All right, Benedetta, we can wrap up the call, and I look forward to your minutes and notes as soon as we can get them. Thanks everyone.

END

