

New gTLD Auction Proceeds Cross-Community WG



11 March 2018

Agenda

1

Welcome &
Introductions

2

Outreach to &
responses to date
from external
experts

3

Commence
exchange of views
with external experts

4

Addressing board
liaison input

5

Review updated
work plan

6

Confirm next steps &
next meeting

Welcome & Introductions

Agenda Item #1

What is this about?

1

Auctions are the mechanism of last resort to resolve string contention within the New gTLD Program.

2

Significant funding has accrued as a result of several auctions – currently \$233 million USD.

3

Community started discussion on how to deal with funds at ICANN 52. Proposed charter for a CCWG submitted to all ICANN SO/ACs prior to ICANN57 and adopted by all subsequently.

4

CCWG commenced deliberations in January 2017

Goals and Objectives of the CCWG

The CCWG-AP was formed in **January 2017**. It is chartered by all of ICANN's Supporting Organizations and Advisory Committees and, as of September 2017, has:



26 members



45 participants



36 observers

The CCWG-AP Charter defines its goals & objectives as:

- Developing a proposal(s) on the mechanism(s) to allocate the new gTLD auction proceeds. This will be provided to the ICANN Board for consideration
- As part of this proposal, the CCWG-AP is expected to review:
 - The scope of fund allocation
 - Due diligence requirements to uphold accountability and proper use of funds
 - How to deal with directly related matters such as potential or actual conflicts of interest
- This group will **not** be making determinations on particular uses of the proceeds (i.e. which specific projects or organizations are to receive funding)

Legal and Fiscal Constraints

As part of its deliberations, the CCWG-AP is required to factor in the following legal and fiduciary constraints:



Consistency with ICANN's Mission as set out in Bylaws:

Due to ICANN's 501(c)(3) tax exempt, public charity status, it must adhere to its Mission and act exclusively in service to its charitable purpose.



Private benefit concern:

As an 501(c)(3) organization, ICANN cannot provide its funds towards the private benefit of individuals.



Must not be used for political activity:

ICANN is barred from engaging in any activity that intervenes in a political campaign for a candidate for public office.



Should not be used for lobbying activities:

ICANN engages in a small amount of activity that is classified as lobbying, which in the U.S. focuses on attempts to influence legislation.

Legal and Fiscal Constraints (cont.)



Conflict of interest considerations:

Taking decisions without conflict of interest is paramount. ICANN is prohibited from benefitting insiders to ICANN.



Procedural concerns:

ICANN will always be responsible for making sure that funds are provided to the appropriate organization both in confirmation of mission and in making sure that funds are provided in a manner consistent with ICANN's 501(c)(3) status.



Financial and fiduciary concerns

The Board and Officers of ICANN hold fiduciary duties to the organization to make sure that self-dealing does not occur and their private interests are not benefited through ICANN's decision making and actions.



Learn more ▶

<https://community.icann.org/x/CbDRaw>

Approach for dealing with the charter questions



Stage 1

Initial Run Through of all Charter Questions to assess initial responses, possible gating questions and common understanding of questions



Stage 2

Address any charter questions that have been identified requiring a response before commencing the next phase (for example, charter question 2).



Stage 3

Compile list of possible mechanisms that could be considered by CCWG



Stage 4

Determine which mechanism(s) demonstrates most potential to meet CCWG expectations as well as conform with legal & fiduciary constraints



Stage 5

Answer charter questions (as organized per 1) for mechanism(s) that demonstrated the most potential



Stage 6

Following consensus on mechanism and responses to charter questions, meeting legal, fiduciary and audit constraints, publish Initial Report for public comment

Further Information

CCWG CHARTER: <https://community.icann.org/x/mRuOAw>

CCWG Workspace: <https://community.icann.org/x/yJXDAw>

Outreach to & responses to date from external experts

Agenda Item #2

Background

- CCWG identified a number of external experts to help inform its consideration of the 4 possible models that have been identified to date:
 - New ICANN Proceeds Allocation Department Created as part of ICANN Org
 - New ICANN Proceeds Allocation Department Created as part of ICANN Org which would work in collaboration with an existing charitable organization (s). Does this mean a philanthropic or grant making organization? Or a charitable organization more generally.
 - A new structure would be created (e.g. ICANN foundation)
 - An established entity/entities (e.g. foundation or fund) are used (ICANN would organize the oversight of processes to ensure mission and fiduciary duties are met)

- 24 external experts approach with a request to respond to questionnaire developed by CCWG

- To date, 5 written responses received (see <https://community.icann.org/x/BSW8B>)

- CCWG members/participants to follow up with their contacts to encourage responses.

Next Steps

- CCWG to consider how to review / consider input received
- Staff inputting response into excel sheet to facilitate review & comparison
- If no responses are received from those identified to participate in a call, how does CCWG want to proceed?

Commence exchange of views with external experts: Samantha Eisner & Xavier Calvez

Agenda Item #3

Addressing Board Liaison Input

Agenda Item #4

As discussed during last meeting

- CCWG to review project examples and see if/how these should be updated in light of board liaison input:
 - Volunteers?
- The task of prioritizing may become easier once the CCWG has settled on a model and the framework through which proposals are evaluated (for example, one could think of a model whereby SO/ACs would define / set priorities which are then factored in by independent evaluators as they review projects)
- Preamble deferred to implementation stage and instead include a general recommendation in the Initial Report that would highlight the need to provide sufficient guidance to evaluators re. ICANN's mission and what is considered consistent with this scope. The preamble could serve as an example for what such guidance could look like, but it would be up to the implementation team to work out these details, factoring in the other recommendations made by the CCWG.
- Leadership team to draft response letter to Board Liaisons for CCWG review.

Review Updated Work Plan

Agenda Item #5

Confirm Next Steps & Next Meeting

Agenda Item #6