
SINGAPORE – New gTLD Program Auctions
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ICANN – Singapore, Singapore

RUSS WEINSTEIN:

But we have that provision in there in case we identify something that needs to change to prevent some bad behavior that we didn't close the loop on. We also clarified the anti-collusion language, or hopefully we clarified the anti-collusion language. That was the intent of the edits. And we removed things like the punitive damages that were in the bidder's agreement. We listened to the feedback there.

On the schedule and logistics topic, once we updated the contention sets, we did public an updated schedule based on the December schedule. That was part of the public comment materials. And we listened to feedback about having one auction time for an ICANN activity really isn't fair to the global community, so we added three starting times for auctions and we'll rotate through those, and the ones you see on the screen all in UTC.

And then we heard the feedback about needing to get clarity on how the auction rules for indirect contention sets will work. We're working hard trying to get that. We want to have those out well before the first auction. We're shooting for the May timeframe to get those defined. We'll say that's a pretty complex area given the way the contention set is shaped out with indirect contention. But we're working with that and we'll work with the community on that.

That was the high-level summary and now we'll get into more of the details, the logistics. This is a busy slide, I recognize. But we tried to

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break down the process into these phases. You have the Intent to Auction Notification. This is where ICANN initiates the process based on an eligible contention set for an auction. We send them the notification. They'll have the opportunity to complete the bidder forms and the bidder agreement, execute those forms and return it. And that activity is due within 28 days of receiving the notifications.

We will then take that information, work with our auctions to get accounts set up with power auctions and with the escrow provider and finalize the date. So in the Intent to Auction Notification you'll have the opportunity to posts requests to postponement. So if we grant a postponement, that confirmation will come in this next step. And if we don't grant the postponement, that will also come in that next step of confirming the auction date.

And we'll provide what we're calling the auction token. The auction token is essentially the handoff mechanism so we can transfer communication between ICANN and the primary contact of the applicant to the bidder and Power Auctions, so they can start working together.

From the bidder, we'll set up their account with Power Auctions, confirming contact information, unlocking the various TLDs that they have auction tokens for, submitting and allocating their deposit across the TLDs that they're going to participate in. Deposits are due seven days before the auction is the deposit deadline. And that's when the blackout period starts. The blackout period is one of the defined terms in the auction rules. It essentially is kind of the point of no return.



So self-resolution is acceptable and encouraged all the way up until the deposit deadline. Once you get to the deposit deadline, that's where we draw the line and say, "Okay, now we're going to have an auction and it's going to be a peer auction with no collusion between applicants."

Then we'll do a mock auction to allow people to play around in the system, and then the auction event seven days after the deposit deadline.

And then there's post-auction activities. So, finalizing the results, posting those results, communicating them, refunding deposits or potentially rolling them over to future auctions if the applicant or bidder is participating in a series of auction events, and then collecting the winning payments from the ultimate winners of the auction. So, next slide.

So the Intent to Auction notifications, these were issued to the eligible contention sets based on the updates we made a couple weeks back. If you received one of these, you received an e-mail with a set of instructions that this was your Intent to Auction Notification. You're formally on notice that this contention set will be set to an auction if it's not self-resolved by the date outlined in the schedule posted online. You'll be instructed to go long into the customer portal and complete these web forms that you see on the right-hand side of the screen. These are due within 28 days of that receipt of intent. This is where you'll, like I mentioned, provide the bidder information and execute and upload the forms.

So designating a bidder is one of the activities you have at your disposal. The responsibilities of a bidder, that's the entity that's going to



represent the application in the election. It may be the applicant organization. It may be a different organization. That's the entity that owns the bank account that the funds for the deposit will come from and where the funds will be returned to after the auction if they don't win.

And then when you're identifying the bidder, you also identify a primary principal – we call it principal point of contact – that will handle all the communication for the bidder for that TLD with Power Auctions, the auction manager. They have bidding authority and they may designate and [have] one more what we call authorized individual who also has bidding authority. So there is some redundancy there.

I talked a little bit about this before, but at least 21 days prior to the date of the auction ICANN will send a confirmation to the primary contact confirming the date and time of the auction and providing the auction token. The bidder contact will then be contacted by the auction manager and they will use the auction token that was provided to the primary contact to unlock or redeem that gTLD in their auction system.

The schedule will be updated as needed as we're doing these confirmations. So we anticipate doing these in a batch format. Auction one we'll do all the confirmations that we can at a time. If we need to update the schedule, we'll do it at that time and then move forward.

So when the bidder is setting up their account with Power Auctions, what they're doing is they're going to be confirming the information that was collected in those web forms, got entered correctly into the system. They're going to, like I said, redeem the token and provide wire details about their deposit, so that Power Auctions can trace the deposit



and make sure that they get it and then they'll confirm that they received it and the bidder will be able to allocate that deposit. If they have more than one string in the auction, they'll be able to allocate that lump sum deposit across the TLDs that they have participating in the auction.

We'll set up a demo in the late April or May timeframe where you'll see all the Power Auction systems and get comfort around those before you have to use them for the first time.

Then we come to the actual auction event and that will be handled in the auction system with Power Auctions. The date and times will be per the schedule that's published. Multiple contention sets are [inaudible] to the auction simultaneously. This is the way the guidebook envisioned.

The first round of the auction will be 30 minutes, and then the subsequent rounds and recesses will be 20 minutes. The bidding rounds essentially continue until direct contention is resolved for each contention set.

Then there's the post-auction activities. Right away Power Auctions will begin working on confirmations regarding who the preliminary, we're calling them, winners and the winning prices were and notifying those members of the contention set of the auction results. They'll be identifying the balances owed or the amounts that they have for a refund. What I mentioned is rollover. What we created was recognizing that many of the participants of these auctions are in many contention sets. We created the ability to rather than have wire transfers going back and forth every single month, the ability to roll over unused funds



to the next auction, and then you can allocate them in the tool. That will happen within the first few days after the auction.

And then within seven after the auction, ICANN will publish the results. We're going to try and get that done as soon as we can. I think seven days is a good SOA to start with. We'll see how close we can bring that into one or two days.

But we'll post the results of these auctions. The results will reveal the winner of the auction, the participants of the auction, and the round pricing that took place up throughout that auction and the number of participants engaged in each round. So it won't reveal who was in any particular round or who dropped out where. It will only define the demand that we call for each round.

So we'll then talk about contention set status and auction schedule and then how that played into eligibility.

So this was a slide, if you attended the gTLD update session that we showed earlier today, we started with the 234 contention sets that the String Similarity Panel identified based on application updates that were made in the March timeframe. We've [updated] the contention sets and we're now down to 233 total contention sets. Of that 233, we have 186 unresolved contention sets and that's the 164 active sets and the 22 on hold sets.

Sets that are on hold are definitely not eligible to begin the auction process, and then sets that are active may or may not be eligible. We'll get into that in a second.



First, I wanted to reveal – this was published last week [about] the auction schedule. So we refreshed the concept of the ten auctions from the December public comment period that was posted and identified first auction of June 4th and we've tried to identify a start time of the auction, when the deposit is due, deposit due times. And we tried to keep the deposit due time uniform to provide more certainty and also allows for the bank to always be open at the time the deposit is due, just for the financial logistics.

So using the schedule and then breaking down the process into the timeline, that's what we tried to do here. So the Intent to Auction notifications went out March 19th. The response window for that is 28 days, so forms are due back from the qualified applicants within 28 days. ICANN will then do the work to assess who's ready to participate in that auction and who's not based on postponement requests and things of the like.

And then confirm the auction dates. We'll do the confirmation of the auction dates. What we're contemplating for the first auction and it will probably hold true for all the auctions, to be honest, is 21 days prior to the deposit deadline. So 28 days prior to the auction is going to be our goal. The auction rules specify it needs to be done at least 21 days before the auction, so we're going to try and provide as much time as we can. An operating assumption we've been working with is trying to provide as much [inaudible] time as possible for the applicants. We recognize there's a lot of money going back and forth. The stakes are certainly high. Just wanted to provide as much certainty and as much clarity for the applicant community going through this process.



So then the deposit is due on the 28th of May, like we identified in the schedule. A mock auction will be conducted a day before the auction event and then the auction event will take place.

The deposits will begin being refunded to those who didn't win if they choose a refund instead of the rollover within five days after the auction.

And then the winning payments are due per the AGB and per the auction rules within 20 business days after the auction. That plays out to almost a month of real time when you play out the business days. So 20 business days, we'll know payment is confirmed.

We saw the schedule. We saw the contention sets. How does eligibility factor into this? Eligibility is defined in the auction rules as all members of the active contention set having passed evaluation, resolved any applicable GAC advice, resolved any objections, finalized any and all change requests and have no pending accountability mechanisms.

So when we look at the active contention sets – the 164 – we actually get to a number lower than that, and I believe it's 106 contention sets that are currently eligible for the auction as of today. Next.

So that 106 – so really we allocated that 233 contention sets across the ten auctions that were contemplated. In the schedule in December I know it's a little confusing that we have resolved contention sets within an auction schedule because we're not going to auction sets that are already resolved, but we did try and provide as much transparency and how all the sets filtered into each of the auctions. So we thought it was



important to include the resolve sets in the list just to help you understand how the math kind of worked out.

In the original schedule, we didn't have those sets that were previously resolved in the schedule. And since that schedule was published additional sets have been resolved. What we did is we went back and kind of found where the lines were drawn for each of the auctions and placed the contention sets based on priority number into each of those auctions one to ten, plus the indirects [I'm] reserving for a separate event.

So with that first auction of the unresolved sets in the auction, of the 17 unresolved sets in the auction, only 13 of those were eligible and they got notices last week. All those in the eligible column there got their notices last week.

As sets become eligible, they will be slated into the next logistically available auction and be given the notice, so we'll update the schedule from time to time to reflect who's now become eligible for an auction and where they can fit if they can't fit in the auction they originally expected to be in based on timing. We'll update the schedule to reflect where they now fit in that schedule. Next.

As I mentioned, all of the applications and all of the contention sets currently eligible for the auction were issued an Intent to Auction notification last week. The idea behind this provides maximum lead time, maximum clarity for all of the applicants involved in these auctions and gets them beginning to work on resolution in the contention sets whether it's self-resolution or through the auction process.



It helps get the paperwork done up front, allows the applicants to begin preparing financially for these auctions if they haven't done so already. By indicating the schedule preference in terms of postponement or advancement, which I'll talk about in a minute, it allows us to adjust the schedule early on and try and get as many of the sets resolved that are ready to be resolved.

So one thing that's important to recognize is submitting the paperwork. Submitting your bidder agreement and the bidder forms does not commit you to participating in an auction. All it does is help prepare you to participate in an auction, should it be necessary.

Like I mentioned, auctions are the mechanism of last resort. The process reflects that. We encourage self-resolution all the way up until seven days before the auction.

Schedule adjustments. Looking through the feedback in the public comment period and also in just the feedback in talking to applicants in Buenos Aires and since then, we recognized there was a lot of competing requests. There was the request for certainty and clarity. There was a request for flexibility to delay an auction. There was a request for flexibility to accelerate the timing of an auction.

So we tried to balance all of these things, which is tough to do because they're somewhat conflicting terms, but we do recognize why you want each of these features in an auction program.

So we identified the schedule and placed everyone into the auction based on priority in the schedule. Then we created the ability to request a postponement. So the postponement requests are designed for if a



contention set is pursuing self-resolution, all members of the contention set can request that postponement and we'll likely grant it. I don't want to commit to anything before we see it, but will likely grant that postponement.

When you're filling out the web forms, there's questions in there about postponement that you can select. "I'm pursuing self-resolution and I request a postponement of the auction." Those are the last several screens in that web form.

The concept we have in mind is that if a schedule request is granted, we would essentially delay that auction by two auction positions. So an auction slated for Auction One, a [contention] that's slated for Auction One, if we granted the postponement would be slated into Auction Three. We'd confirm those dates, update the schedule as necessary and get you going.

We also thought of the opportunity for contention sets to want to advance. Say they're scheduled pretty far down the line based on priority number and how it all played out. If there's unanimous agreement amongst the members of the contention set, then the schedule is going to have the capacity to allow for that set to be advanced.

Unfortunately we didn't get it built into the web form before we deployed it, so we're going to request that if this is the case that a contention set would like to be moved up in the queue, please submit us a case from the primary contact via the customer portal and identify where you would like – what's the earliest available auction you could



participate and we'll work to accommodate that as best we can and communicate with you. Next.

So looking ahead, April 16th I believe is 28 days after those auction notifications went out. Depending on your time zone, the date might be off, but the date is very clear in the web form as to the date and time that the forms are due.

In early May, like I mentioned, we'll put together a demo by Power Auctions so that you can see the bidder tools, the systems available, for both the pre-auction activities as well as the auction activities. We got a demo a couple weeks back and the system's looking really good. Real intuitive, easy to use web-based portal. We want to get that in front of the applicants as soon as we can.

Mid-May is kind of the target we have right now for resolving – or for identifying the rules for indirect contention sets and that will enable the rules to be updated in advance of the first auction so that everyone has those ground rules going into the first auction.

And then the first mock auction – or the first deposit deadline will be May 28th as identified in the schedule. That first mock auction will take place on the 3rd of June and the real auction event will be June 4th.

So with that, I think I've finished my portion and I'd like to open up the floor for questions.

[BRETT FOSTER]:

[Brett Foster] with [inaudible] registry. I was curious to hear about what kind of customer service there was going to be during the auctions. If I



can't log in, do I have a phone number and a name of somebody I can call and ask for help?

RUSS WEINSTEIN:

Yeah, absolutely. There will be phone numbers, fax numbers provided to you and they have live humans there at Power Auctions doing the customer support. There's a customer support mechanism within the tool. If you are in the tool but are not understanding something or want to start a dialogue, there's a way to communicate back and forth fairly real time with the auction manager.

They're well-versed in supporting bidders, especially first-time bidders, participating in auctions and they're well-prepared.

UNIDENTIFIED MALE:

Yes, good afternoon. I have one comment and one question. First, I raise the question. You said that the auction will be for the last resort. When does it start the clock, the timing that starts? This is the question. Then I have a comment.

The comment is the following. I have mentioned yesterday in the GAC meeting when there was a presentation about the auction. At the time that the chapter [14] was written, the environment and situation was quite different than today. Auction is seen to be some sort of [speculative] process. It may not fit with the nature of the gTLD which you put the one who does not have the ability or financial ability in a worst condition and provide opportunity for those who have financial capability to override the others. That means a good boy is punished and the other one is promoted.



Perhaps there is a need to look at the whole process to see, one, whether they need to reconsider the concept of auctions. Two, whether there should be two options – one, if the parties agreed for auction, then you go through the auction; if they don't agree to the auction, you don't go to the auction. The parties may be the one who is starting the applicant who receives contentious situations and he will be asked whether he agrees to go to the process of auction or still [given] time.

And the third situation, to look into alternative approach to resolve the problem of contention other than going to this financial thing, converting the situation to some sort of the [inaudible] activities.

At this very moment, that entire situation is under the scrutiny of the whole community. It may be necessary to consider at least not to proceed with the auction for those cases that you have mentioned waiting some time to see what would be the result of this evolution that recently has happened and continue to be pursued. So I would be very much appreciate if you kindly reply to the question. And if you comment, the [inaudible] made. Thank you.

RUSS WEINSTEIN:

Sure. I can certainly take the question, and thank you for the feedback. Related to the question, the clock essentially started last week when we updated contention sets and we finalized [inaudible], updated the auction rules and bidder agreements. We now felt that auctions were ready for operations, implementation.



So for those contention sets that are currently eligible for an auction, the clock started last week as they got their Intent to Auction notifications. Thanks.

UNIDENTIFIED MALE:

I would just add to that. The clock started last week. Any parties to an auction are free to try to resolve the contention set by other means up until seven days before the auction, and then at seven days before the auction we have anti-collusion rules in effect to try to prevent people from gaming the auction system.

In terms of your comments, I appreciate the input and the thought behind it. The Applicant Guidebook specified auctions and specified the auction methodology. A lot of applicants feel they relied on that, and from staff's point of view, we're implementing policies that were decided by the community and aren't in a position to change policies. If policies were going to be changed at this point, it would have to be done by some method other than the people on this platform making that decision.

SARAH FALVEY:

Hi, Sarah Falvey, Charleston Road Registry. I just have a question about the advancement. I think that there's a lot of applicants that would like to move up and know that now, and having it go through the CSE portal makes it incredibly cumbersome to do that now and go through that. Are you going to be building that capability? Are there any plans to build that into...



You said that it didn't make it into this rollout of the software. Is there any plans to build it in so that as the auctions progress, it is easier to indicate that you do want to get an earlier slot if it becomes available?

RUSS WEINSTEIN:

Sure. I definitely understand where you're coming from, and like I said, we didn't get it in in time. So we've notified the majority of the sets. I don't think we'll be able to get it in time for the 28-day window that that web portal forms are due back. But we'll certainly look at how soon we can get that into the system so that it can be requested for future notification rounds.

SARAH FALVEY:

Or is there a way that, in the CSE portal you can – you know how when you do the CIR or there's lots of things where you fill out a form instead of just doing a case, having it be so that you just click. You could send it out to everybody saying, "If you'd like to advance, then you can just fill out the form versus starting a whole new case." And everyone's going to be different. It's going to be hard to match them up. So [inaudible] everyone needs to agree.

RUSS WEINSTEIN:

Yeah. That's a good idea. I think we'll take something like that into consideration and maybe we can talk offline. I think I'm meeting with the NTAG later this week and maybe we can talk about possible ways to facilitate the process.



JONATHAN ROBINSON: Hi, Russ. It's Jonathan Robinson. It's easy to support Sarah's point. You've got it anyway. It's logical to make something that doesn't end up with two or three cases running that are potentially correlated.

When you talked about the eligibility and the number in the eligibility, assuming people wanted to advance, have you specified – I might have missed something – a capacity in that eligibility? What's the number? Because they were uneven, of course. By virtue, the method you've chosen, they've come out as uneven and I just wondered what the capacity was in each case.

RUSS WEINSTEIN: Yeah. So the schedule from December was 20, and we tried to stick relatively close to that 20, but redrawing the lines from where they were to where they are now did cause some fluctuation there. In the auction rules, there's – I don't think it's a clause. I think it's one of the explanatory notes that talks about the idea behind a capacity of 20 contention sets per auction.

If the applicants chose to increase that, we might consider it, but we think 20 is probably a good number per auction.

JONATHAN ROBINSON: So currently for all practical purposes, 20 remain. So, for example, if you had 14 in preceding set and a number applied to advance – say six applied to advance – you would then say there's no more opportunity to advance into that set?



RUSS WEINSTEIN: Most likely we would probably cut it off, but if they all were comfortable with advancing, we might consider increasing that capacity to 21 or 22. I don't think we're looking to go to 40 or 50. Thanks.

SHERI FALCO: Hi, Sheri Falco with ICM registry. So we're in a contention set, like number ten, so kind of the last one and we have to respond by April 16th. So what happens if we don't ask for postponement or advancement by that April 16th deadline, but then later on in the process through conversations or some strategic decisions we decide we want to either postpone or advance? Is there opportunity to do that after April 16th?

RUSS WEINSTEIN: The way we [contemplated] it, the postponement requests – and this is part of the auction rules – need to be submitted within 28 days of the Intent to Auction notification. So the postponement request really does need to be locked in in that first 28 days.

The advancement request I think we'd be more tolerant of. I we're trying to accelerate a contention resolution, that's something we're all interested in doing if the parties agree. I think we'd be more tolerant of accepting advancement requests.

JOHN NEVETT: Thanks, Russ. John Nevett, Donuts. Quick question. One issue that a lot of folks raised in the public comments related to the overbroad indemnification provision where essentially the applicants participating



in the auction have to indemnify both ICANN and the provider for pretty much anything related to the auction.

So, for example, if the provider has some kind of IP lawsuit filed against it based on its software or if it messes up with something and creates liability, they could come after applicants for doing that.

So I guess we were a little surprised that that wasn't corrected after the public comment periods. I was wondering if you could just take the opportunity – maybe Alan take the opportunity – to explain why that wasn't resolved and changed based on those comments.

[ALAN]:

Sure. I think there were conflicting motivations on the part of applicants participating in the auction. A number of applicants wanted certainty that this really was an auction of last resort and didn't want to see a situation where after an auction there was encouragement for people to litigate, dispute the results of the auction, continue to delay, make the results not final. So that was part of the rationale behind drafting the indemnification the way it was.

If you have specific concerns around some of the issues you just raised, maybe we can talk about that offline and think about whether there's a way to address those.

RUSS WEINSTEIN:

Currently contention sets are listed as either eligible or ineligible, although it's somewhat opaque to the other applicants of why that may be ineligible. It seems to make sense if you're in a contention



[inaudible], you should understand why there's an ineligibility with another applicant and what an ineligibility is and if there's plans to disclose that.

[ALAN]:

We look at eligibility on a daily basis on the operations team for a variety of the processes and it really does change from day to day. Things that had GAC advice one day are now in the change request process, and then they're in the comment period after the change request. There's just a lot of moving parts to eligibility and I think having a way to communicate what exactly is the issue in a timely manner wouldn't be resource efficient and wouldn't be easy to accomplish for us.

We'll continue to look at ways to provide better insight into the eligibility for the applicants, but that's my initial feeling on why we didn't define what exactly was going on with each applicant and why the contention set was ineligible.

UNDIENIFIED MALE:

Hey Russ, we have a question from a remote participant. [Rich] from [Minds and Machines] asks, "Is there a reason that contention sets currently set to go to auction sometime in February 2015 need to submit all bidder forms by the same time that auction is set for June 2014?"



RUSS WEINSTEIN: [inaudible] mentioned the methodology we came up with was try and front load the process as much as we could so that we had the flexibility to start moving contention sets around to different auctions if they wanted it. It provides as much clarity and certainty as we could for the applicants so they could be preparing financially.

That was the logic. Try and front load the process as much as we can. Get the paperwork out of the way and then work towards contention resolution in the most efficient manner we can.

I don't see any more questions from the room. Am I wrong? There's one.

UNIDENTIFIED MALE: I have a basic question. The deposit, is there a minimum deposit or do you define that or is it the percentage of how much my maximum bid is? How does that work?

RUSS WEINSTEIN: There's no minimum deposit. I guess a zero would be a minimum deposit.

UNIDENTIFIED MALE: Seriously? Really?

RUSS WEINSTEIN: The maximum deposit you need to provide is \$2 million, and a \$2 million deposit will enable what we call an unlimited bidding limit.



Otherwise, any deposit under \$2 million will be treated where the bidding limit is set at ten times the deposit value.

UNIDENTIFIED MALE: Okay. So I can only bid up to ten times my deposit?

RUSS WEINSTEIN: Yeah.

UNIDENTIFIED MALE: What happens if the winning bid fails to pay up?

RUSS WEINSTEIN: There's some pretty specific default procedures in the auction rules. If a payment is not received within the 20 days and then the auction manager doesn't believe it's imminent in working with the bidder, they'll declare the previous winner in default and I believe it goes to the next highest bidder at that same price and then on down the line.

And there's default penalties associated with defaulting. If you default, I think you're liable for your deposit or up to 10% of the winning bid.

UNIDENTIFIED MALE: Is the second winning bidder required to buy it at that point or does he have the option of passing?



RUSS WEINSTEIN: I believe they are required, otherwise they'll be subject to the same default penalties and it will keep moving down the line.

UNIDENTIFIED MALE: But you've refunded the cash already at that time. At that time, you refund the cash before the winning bid is required to pay up.

RUSS WEINSTEIN: That's true.

UNIDENTIFIED MALE: So you can't withhold the penalty at that point?

RUSS WEINSTEIN: We'll have to take that into consideration. [Brett's] got a couple more.

[BRETT]: I've heard a couple of comments from the panel about taking things under consideration, including contracting language, which I appreciate. I'm glad that people are open to things. At the same time, we now have a clock ticking on us to sign an agreement. There's a bit of a tension between those two concepts.

At what point will we know that this is what we have to do and we should go ahead and sign up?



RUSS WEINSTEIN: Go ahead and sign up. We'll talk this week with the members who are here that are concerned and try and figure out a path forward if there's not a path forward with the existing agreements and documentation. We'll communicate if there's any changes. Otherwise, I would use the timeframes we've outlined today 28 days from that Intent to Auction notification.

[ALAN]: I would just say we're open to discussion, but at some point we need to get this finalized and moved forward, so I don't think we're open for discussion for very long.

RUSS WEINSTEIN: All right, thank you, everybody. We'll conclude this session.

[END OF TRANSCRIPTION]

