
ICANN Transcription

CCWG New gTLD Auction Proceeds Final Report Webinar

Tuesday, 7 July 2020 at 1200 UTC

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NATHALIE PEREGRINE: Good morning, good afternoon, and good evening, everybody. Welcome to the Cross-Community Working Group on Auction Proceeds webinar on Tuesday, 7th of July, 2020. All attendee lines are muted at this time to avoid background noise and will remain muted until the question and answer portion of the webinar.

This webinar room is equipped with a chat feature at the bottom of your screen and a Q&A box, which is also found at the bottom of your screen under the presentation pod.

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If you'd like to ask a question, however, please use the Q&A box, and this question will either be answered during the presentation or at the end during the Q&A session.

You'll also be, obviously, able to raise your hands and ask a question via audio during the Q&A portion at the end of the webinar. As a reminder, all those who take part in the ICANN multi-stakeholder process are to comply with the expected standards of behavior. With this, I'll turn it over to Erika Mann. Please begin.

ERIKA MANN:

Thank you so much, Nathalie. Hello to everyone. I'm very happy that you are joining the webinar today. It will be chaired by Ching Chiao and myself. I will do the quick introduction, and then Ching will take over and will handle the question and answer session.

Let me, before we start, thank everybody from the staff side in particular. It has been an extraordinary journey, you will see: longer than three years, two public comment periods, with an immense workload. So, allow me to thank everyone. In particular, of course, Marika, Emily, Joke—she can't be with us today—Nathalie, Terri, everybody who was involved.

And second, allow me to thank the board liaison and the board. You will see we have worked very closely together with the board to avoid any potential problems which may otherwise have arisen at the end of our work.

So, we started working, and exchanging letters, and getting the information we needed from the very beginning of our work. The

same has to be said for Sam from legal and Xavier, in particular, from finance.

Again, we received a lot of advice from both entities and both units to ensure that our work is in accordance with the bylaws and all of the other legal obligations which are relevant to ICANN.

So, having said this, let me go through the slides quickly. Just one other thing, please. I would love to run through the slides, but if you have the feeling there's a super-urgent question, don't feel under any kind of pressure not to raise it.

Just please be kind, put this in the question and answer box which is at the very bottom—Nathalie mentioned it—or in the chatroom, and Emily and Marika will watch it, and then they will disrupt me because I'm not going to watch these boxes. And they will disrupt me, and then we'll raise your point.

So, we've been tasked with developing a proposal for consideration by its chartering organization on the mechanism that should be developed in order to allocate the new gTLD Auction Proceeds.

Now, a "mechanism" is a structure. Keep this in mind. We have selected this term. It's a structure, it's an organization. It is something which will guide the future allocation of the fund.

So, the chartering organizations are all of the SO/ACs. So, the Address Supporting Organization, the At-Large Advisory Committee, the Country-Code Names Supporting Organization, the Generic Names Supporting Organization, the Government Advisory Committee, the Security and Stability Advisory Committee, and Root Server System Advisory Committee.

We have seen little changes. Most, we had a very stable participation. We saw some changes but, overall, it was a quite stable group of members, and even participants. We have submitted our final report to the chartering organization for their approval at the end of May 2020. Can we continue?

Here, you see on the slide just a short explanation. I don't actually explain much to you. It's just explaining again why, actually, the Auction Proceeds was created. So, only one registry can operate a top-level domain. And auction is the mechanism of last resort for resolving contention between two or more applicants for a string through the new gTLD program.

And proceeds generated from auctions—I'm not reading everything here because you know the background—of last resort are being separated and reserved until the multistakeholder community develops a plan for their use. This is what we have done. This must be, then, approved by the board. Until then, the money is kept in a separate budget line. So, we can continue from here.

Here, you see we started formally in January 2017. We completed our work in May 2020. 22 members were part of our group. Overall, we had 50 participants and 40 observers.

The charter was defined in the following way: developing a proposal on the mechanism to allocate a new gTLD auction proceeds. This will be provided to the ICANN Board for consideration.

As part of the proposal, the CCWG Auction Proceeds was expected to review the scope of fund allocation, due diligence requirement to upward accountability, and proper use of funds, and how to deal

with directly related matters such as potential or actual conflicts of interest – not part of our scope for the CCWG determination on particular use of the proceeds. We will come back to this point a little bit later to explain it in more detail.

Can we just continue? So here, for your interest, the call for volunteers was the end of December. We started in January. As I just mentioned, we had the first public comment period in December 2018.

We then decided, because we received many comments which were very valuable, to continue our work. And we then had a second public comment period in December 2019, and a final report in May 2020.

You have to keep in mind—and you will see this a little bit later—the work will continue once it goes for the absolutely final implementation phase. So, it goes to the board and the board will take its final decision. Then, there will be, still, an implementation phase. So, just keep in mind the work will have to continue for a little bit longer. Although, it will be not our work of the CCWG any longer, but somebody else will have to do, then, the implementation.

Can we continue? So, these were the legal and fiscal requirements. I'll just read them quickly to you because I believe they're important for you to keep them in mind.

Consistency with ICANN missions, as set out in bylaws. The recommendation must support ICANN in adhering to its mission and act exclusively in service to its charitable purposes. The board

remains responsible for determining consistency with ICANN's mission.

This was the main reason why we decided we want to continue to work with the board throughout our work, and we don't want to have a situation where we, at the very end of our work, will send everything to the board, and then the board will say, "No, we don't like this." So, that's one of the main reasons. Because of this goal, we decided to work with the board.

Private benefit concerns. ICANN cannot provide its funds toward the private benefit of individuals. Third goal: must not be used for political activity. ICANN is barred from engaging in any activity of funding of any activity that intervenes in a political campaign for a candidate for public office, and the auction proceeds should not be used for lobbying activities.

ICANN has limits on the amount of its budget that can be used for lobbying purposes/attempts to influence any kind of legal legislation, and the auction proceeds cannot be used for lobbying purposes.

We have a very strong gating of conflicts of interest considerations. The CCWG Auction Proceeds has been advised to document how it takes conflicts of interest into consideration in its deliberations.

The board's fiduciary duty requires it to make decisions without any kind of conflicts of interest, and we have been very prudent, here. Accountability throughout all phases of the disbursement process: ICANN must ensure it remains fully accountable for the proceeds and to the purpose that has been assigned to them.

ICANN's accountability to the public will, therefore, require implementing thorough mechanism of evaluation, monitoring, and oversight before, during, and after disbursement. And finally, financial and fiduciary concerns. The board and offices of ICANN hold fiduciary duties to the organization that cross many concerns.

So, now we are coming to the main recommendation. So, these were the points which [were gating] our work and we have been, as I mentioned before, extremely prudent in never overlooking them.

So, the mechanism for allocation of auction proceeds, or "the structure," instead of "mechanism": the final report discussed three possible mechanisms that the CCWG considered good models or good options for allocation of Auction Proceeds.

We had four at the very beginning, and I will name the fourth one, too. But already, during the first public comment period, we had decided that we will exclude the fourth option because there was simply not sufficient support for it.

So, mechanism A is an internal department inside of ICANN, but separated from and shielded from the rest of ICANN's work, dedicated to the allocation of ICANN proceeds.

B is an internal department which will work in coordination with a separate, existing non-profit organization, ideally an entity which understands how ICANN works.

And mechanism C would be a new charitable structure; an ICANN foundation which would be solely created for the ICANN proceeds purposes.

And the fourth one would have been an entity where we would have sent the money to. So, practically, an already-existing fund management system. This way, as I mentioned before, we already had excluded.

So, we had three left for the second public comment period, and we came to the following conclusion: the CCWG recommends that the board selects either mechanism A or B for the allocation of auction proceeds, taking into account the preferences expressed by CCWG members for mechanism A.

As part of its selection process, the ICANN Board is expected to apply the criteria outlined by the CCWG, and the CCWG strongly encourages the board to conduct a feasibility assessment which provides further analysis of the recommended mechanism, including costs associated with each mechanism.

So, just to explain it to you, and we will show it to you a little bit later, we had, in the final indicative vote—in the consensus call, actually—seven members supporting A. We had four members supporting B. We had three members supporting C, if I remember it as well, but we will show it to you later.

We had one abstention, and Ching and I didn't vote. We never voted because we wanted to stay neutral. So, that's the reason we came to the following conclusion.

Personally—and I believe this is shared by the majority of the group because the liaison members were with us and we had a strong communication with the board throughout the whole operation—I believe it's totally fine to recommend it to options A and B, and we

believe that the board will be completely able to select the most appropriate system.

The feasibility assessment came in quite late as a recommendation. And in the record about how we discussed it, people will see it shall be done in a fast way, so not a long, complicated assessment. It would just repeat the work we have already done, which would be not very helpful. But just short, and sharp, and really focusing more on the cost items.

We looked into the cost factors, too, but it was very difficult for us to receive precise answers. So, it might be much easier once the board targets an entity to do such a quick assessment to come to receive the concrete numbers.

Can we move on? So, the recommendation summary. They're very short. You will see, in total, we have 11 additional ... How many recommendations do we have in total?

So, in addition to making a recommendation about the mechanism for allocation of auction proceeds, the report includes 11 additional recommendations which cover the following [topics], and we only selected the most important one. But on the slides which have been sent to you, you will find all of the recommendations mentioned.

I would want to add that I hope you will be able to read the full report. We do have a bunch of guidelines added to the report, as well. The guidelines were topics where we all said that's something the future transition team will have to look into.

So, whenever we saw a topic coming up which we regarded as highly important but not really relevant for our work, we nonetheless record these topics – put them in a set of guidelines.

And you will find, in the attachment of the report, the same is true for all the advice we received from legal, from finance, and from the board. All of this is put on record, so nothing should be forgotten.

So, let me go quickly through these few recommendations, here. First, we recommend an independent project evaluation panel, which will be established to consider and select projects.

So, we wanted to ensure that there is complete independence, whatever kind of structure is selected. So, even if this would be inside of a unit inside of ICANN, there will be, still, an independent project evaluation panel.

And members of the communities can participate, but they can only participate in their individual character and based on the expertise they have, and only if there is no conflict of interest – and kind of interest, neither personal, nor related to their community, nor related to their work.

So, the next one: objectives of fund allocation. So, the benefit. They shall benefit the development, distribution, evaluation, structures; a project that supports the Internet's unique identifier system. The second benefit: capacity-building in underserved populations and benefit the open and interoperable Internet.

The last two bullet points were discussed. The first one is obvious. The last two were discussed many times, but there was a broad understanding we should include them. Please keep in mind these

two bullet points will still have to support the bylaws and the first bullet points. So, there is not a dislocation from the first bullet, and the second, and the third.

Safeguards have to be put in place to ensure that legal and fiduciary constraints are respected. Conflict of interest provision and auditing requirement will be established. So, these will be independent auditing requirements, independent from the ... In case it would be an ICANN unit, or in case it would be a unit which would then work with a separate entity.

The existing ICANN accountability mechanism cannot be used to challenge decisions on individual applications. That's a quite strong one, and you may want to pay particular attention to this one because it will require amendments to the fundamental bylaws.

For this particular limited purpose, we are practically saying here, if you want to challenge in the future a decision based on an individual application an entity has done, and you want to challenge this, you cannot use the existing accountability mechanism.

You can't request the same appeals. You can't request the same reviews, simply because it would take too long and it's not in accordance with standard practices established in any other kind of funding environment. So, we wanted to ensure we comply, here, with state of the art in existing funding environment.

Next one, please. Yes. We are saying the selected mechanism must be implemented in an effective and judicious manner. It's not a perpetual mechanism, and the disbursement should be

something ... My video is in front of it. Must be staged in tranches over a period of years.

Now, keep in mind we have discussed this—not mentioned, here—in case the concrete projects come to the conclusion that there shall be some minor projects which have only an allocation of a million, or maybe even less.

Then I believe the evaluators will evaluate this particular recommendation and may come to a conclusion that stages ... And if it's a very small amount, may not be recommendable. But that's something for the future work and the future team to be decided.

So, we have established two types of review and, again, that's in accordance with state of the art practices. So, internal reviews and broader strategic reviews.

The internal reviews are just a constant reviewing, more like an auditing: is everything working? Is it accordingly to ... Is the money transferred in time? Are the project evaluations done in time? Have project applicants come back to the team when they have raised a question? So, just a simple, internal review which needs to be done all the time to check, are all the processes in place?

The broader strategic review: we believe it's important after a certain period of time just to see, are the goals met? Are there sufficient ... Have people understood what this fund is actually about?

For example, what happens frequently, that people want to focus on something else than what the original proposal was. Then,

maybe some modification will have to be done. So, these are the recommendations for internal reviews and broader reviews.

The report also includes guidance for the review and selection of funding proposal. And again, out of scope, any recommendation or determination with regard to specific funding decisions, including specific organizations or projects to fund or not.

Can we move on? So, yeah. Coming back, again, to the final recommendation we made, preference for A, strongly followed by B. And the CCWG Chairs designated the level of support for the final report and recommendation. So, what are we saying here? I can't see this again. Nathalie, can you read this, or Marika, or Emily? The first line.

EMILY BARABAS: Hi, Erika. So, the CCWG Chairs designated the level of support for the final report, and recommendations as having consensus; a position where a small minority disagrees but most agree.

ERIKA MANN: Thank you so much.

EMILY BARABAS: Sure.

ERIKA MANN: It's a stupid little video, and somehow I can't move it around. We received one minority statement from the Commercial Stakeholders

Group, and the CSG highlighted two issues in its minority statement.

So first, in light of the final polling result, the CSG questions the stated preferential status afforded to mechanism A, and one CSG Constituency, namely the IPC, specifically strongly opposes mechanism A as posing unreasonable risk to ICANN.

Accordingly, as a pre-condition to forming an internal ICANN grant allocation department of any kind, the Board should refer the matter to the Board Risk Committee for further assessment.

So, in the poll here, you have the numbers again, as I mentioned. Seven members recommended mechanism A as their preferred mechanism, four members ranked mechanism B as their preferred mechanism, three members ranked mechanism C as their preferred mechanism, and one member did not state a preference, commenting that the CCWG should not recommend a mechanism. And then, we have the number below for the participant.

Can we move on? So here, we have the current situation. We have sent it to the SOAC. In an ideal situation, all COs consider and approve final report. In case we will receive substantial comment, we will review them and will send them back with a new recommendation.

Hopefully, this can be done in case this is going to happen in a relatively short period of time. And then, it goes to the board – reviews proposals and consideration of future oversight, including reporting compliance. And then, the mechanism would be

implemented and we would have the transition implementation phase kick in.

We have asked the Chartering Organization to respond with the results of deliberation by July 30th, 2020. If this is not feasible, COs are requested to let the co-chairs know when they expect to be able to provide a response.

Yeah. And the rest, I believe, is clear. So, let me hand over to Ching to handle the question and answer. Marika, do you have a point you want to raise? I see you coming in in the Skype room. Marika?

MARIKA KONINGS: Thanks, Erika. No, I was just flagging to Ching that we had a couple of questions in the Q&A pod that we've—

ERIKA MANN: Thank you so much. Just in case he can't see it or he has the same difficulty like I have, I believe Ching would appreciate, as well, if you would read them. But Ching, I hand over to you. Please.

CHING CHIAO: Thank you, Erika. Good morning, good evening, everybody. This is Ching Chiao, the co-chair appointed by the ccNSO. So, what we will be doing for this Q&A is that we will see hands raised in this chat window. We'll also be watching the chatbox, and also this new Q&A box. So, let's see what we have, here.

So, Erika pointed out that we already have one Q/A from the Q/A boxes. So, it's from Jim. If those who participate in this call have the

latest version of Zoom, you should have your Q/A box on where you click that Q/A button.

Actually, while we're waiting, we have one question from Jim. And also, we have a new ... Oh. So, a follow-up question by Vanda. So, let me read the question briefly. The question from Jim is that, "If there is an auction of last resort in the next round for the hypotheticals, 'generate three million,' do we have to go through the CCWG all over again?"

And then, we have the response from Marika. The response is that, "From my understanding, it is up to the board community to decide whether to use the existing mechanism." Let me add quickly on the previous discussion: for this particular subject, the CCWG, this working group in particular are trying to handle the auction of last resort for this round.

So, for the next round, if there is any need or the community or the board feels like this mechanism can be used again and the board or the community can decide to do so. So, I guess Marika has already responded to this question.

So, we have something from the chatroom, it seems. Oh. So, actually, it's Nathalie for the reminder. So, it seems a little bit quiet, here. So, let's give everybody some time to see if there are further questions. Not necessarily from ... Obviously, it's the auction ... I mean, the revenue from the previous round of the new gTLD program, but we do have a good turnout.

At least for this meeting, what I consider a milestone meeting, here, a good turnout from the representatives on all the SOs and ACs.

So, once again, thank you for being here. But let's see if there is anyone who would like to address or have some questions. We have one more from Lucky from the Q&A box. The question is, "If option A or B is preferred, will there be a terms of reference for the disbursement of the fund?"

ERIKA MANN: Shall I quickly answer, Ching, or you want to go ahead?

CHING CHIAO: Yes, please do that.

ERIKA MANN: We have the terms of references where those which I—if understood your questions right—read to you, the set of recommendations, plus the guiding environment. So, either the legal and the fiduciary guiding/gating environment. So, there will be no difference. Either A or B will be selected. They have to be respected in the same way. And keep in mind, even if it would be A, the structure would have to be shielded and completely independent from ICANN. So, Lucky, I hope I understood your question correctly.

CHING CHIAO: Thank you, Erika. So, I hope that also addresses, Lucky, your question. We have another one, a follow-up. I would guess it's a comment from Jim, indicating that one would hope that it means

that this mechanism that we're developing will be used, as we don't want to spend another three years developing a new mechanism.

So that's, I guess, a follow-up comment by Jim. Okay. So, let's give everybody another minute to see if you have anything to add or any further questions or comments. As Jim pointed out, yes, it does take nearly three and a half years to reach where we are right now.

In particular, as we started, there seem to be various views on the mechanisms themselves. But we'll be able to take our time to narrow them down to mechanism A and B. So, I guess this is sort of our good, and also a last, chance for you from the SOs and the ACs, if you have the final thoughts or any other concerns before we can kind of wrap this project up.

EMILY BARABAS: Hi, Ching. It looks like we have a couple of additional questions in the Q&A pod. Would you like me to read those out?

CHING CHIAO: Yeah, that would be great. Yeah. I was trying to flip over, jumping over the boxes, but things were letting me ... No, please go ahead. Yes, thank you.

EMILY BARABAS: Okay. We had a question from Lucky asking, "Is there room for further comments before the board makes the final pronouncement?" This is one that Marika had provided a response to. She said, "Typically, the board puts out proposals for public

comment before it considers for adoption, but this is, of course, up to the ICANN Board to decide.” Do you want to comment on that further, or shall I read the other questions coming out?

[ERIKA MANN:] It’s totally clear, Nathalie, what Marika said.

EMILY BARABAS: Okay. The next question is from Nigel Cassimire. He asks, “The recommendation in part was without creating a perpetual mechanism. Does one not anticipate a long-term need to address the fund objectives? [It’s just] capacity-building and assistance to under-served areas.” This question has not yet been answered. Thanks.

ERIKA MANN: Shall I reply quickly, Ching?

CHING CHIAO: Yes, please do.

ERIKA MANN: Oh, with pleasure. So, this was something we discussed from different angles, and we had long discussions about it – quite controversial discussions. Because it was not always clear how, actually, the particular goals of ICANN, and the bylaws, and the money available, we would be able to help underserved regions or the greater goal of the sustainable Internet.

So, we had many discussions about it, pros and cons, and we came to the conclusion to keep it in but to say, “Look, if a smart project comes in which is really important for underserved regions, it would be good if it would find the support.”

But keep in mind, it would still have to benefit the bylaws and the overall goals as defined in ICANN’s ecosystem. So, it can’t depart from the bylaws. But we wanted not to exclude it because you never know what kind of smart project somebody might put forward. So we didn’t want to limit it, and we still believe these goals are, in principle, important. They do have some constraints but we believe they are, in principle, important.

CHING CHIAO:

Thank you, Erika. I also would just like to remind everyone quickly—and thank you, Nigel, for bringing this up—the concept of the long-term need. Obviously, when Erika pointed out that when ... So, for this CCWG, we did work simply centered around the ICANN’s “narrowed mission.” Also, to serve ICANN’s mission.

So I would say that, with this question, I think this long-term goal or long-term strategy is definitely ... As you were pointing out, this could be blended into capacity-building projects or to assistance to underserved areas, as long as it matches the need to serve ICANN’s bylaws, and also the missions.

Let’s move onto those questions answered. I am seeing a question asked by Marita Moll and answered by Marika. So, if possible, for Marika, would you like to explain a little bit and to share a little bit of your answers, plus the questions? Marika?

MARIKA KONINGS: Sure, Ching. Thanks. So, I responded to Marita that the report itself has some info on cost expectations for the different mechanisms on page 13 and 14 that were provided by ICANN Org. It focuses more, instead of giving specific numbers, on what the expected differences are from a cost perspective in looking at mechanisms A, B, and C.

And then, I also pointed out that the report itself stated—and of course, this was an important point for the CCWG—that it strongly encourages the ICANN Board to conduct a feasibility assessment which provides further analysis of the recommended mechanisms, including costs associated with each mechanism, so that the board can take an informed decision about supporting the most appropriate mechanism.

CHING CHIAO: Great. Thank you, Marika. I hope this addresses your question. Thank you, also, to Marita Moll. Okay. It seems that, honestly speaking, I'm new to this Q/A box. But with this feature, we don't have many, actually, to raise their hands and use a voice communication with us.

I'm just going to give everyone another minute. If there is no further question from the hands or the boxes, I will be handing this session back to Erika. So, let's give everybody another minute. I'm seeing, also, nothing from the chat window. Yeah.

If there is anyone who'd like to raise hands, you can still use that feature, not necessarily only in the Q&A box. So, everybody in this

meeting should be able to raise their hands here in the Zoom tool. Okay. If there is no further question, I guess we will conclude this Q&A. I'm going to hand it back to Erika. Thanks. So, Erika.

ERIKA MANN: Yeah. I'm here, Ching. Ching, thanks a million. We were an extremely good team. I enjoyed working with you. I mean, over such a long period of time, it's nice to have two co-chairs which really like working together. I really appreciated our work. Thank you so much, Ching.

CHING CHIAO: Thank you, Erika. So, likewise, I learned so much working side by side with you. And also, the staff team provided a great support over the last three-and-a-half years. It's a long journey, but I'm actually very glad that we've come to this stage. Thanks again.

ERIKA MANN: Yeah. Absolutely, Ching. Same here. I enjoyed the work with you. I enjoyed the work with our staff, and the board, and legal, and Sam, and Xavier. I think we had a really great team.

So, let me just remind you, maybe all of you, because it would be great if you would find the time, really, to evaluate the report. Have a look at it. Don't forget to look at the guidelines at the very end. Please review the advice which we have received, because they all correspond to really important questions. Some of them, you asked here today.

So, advice we received from the board and from ICANN legal and finance. I think they can give you some good indication about the way we worked and the questions we raised. I'd like to thank all of the members of this group which were so stable and with us over such a long period of time.

The same, too, for the participants and the observers. Without you, it wouldn't have been possible, actually, to do this work. It was a really great team in total and we had so much expertise coming from different angles and different sides, and all the expertise you had which was extremely valuable. We couldn't have done any of the work without any of you.

So, please be so kind to review all of this. Go back to your SO and ACs and check if the timetable is workable or if you need a bit longer. If it is workable, we really would appreciate it because, then, we can finish the time as early as possible. I believe we said end of July. But if it needs to be extended we are, of course, flexible.

Hopefully, we don't receive too many new recommendations or ideas that this is not workable or not in accordance with the goals an SO and AC had in mind. Hopefully, this is not the case. If it is, we will a solution. We have been flexible so far, so we will always find a solution. And then, hopefully, it can go to the board as early as possible, hopefully with the support from all of you.

So, let me thank you again. Let me check. Ching, is there something which came in, or Marika, or Emily, in response to the last comment? No, not the case. Okay. Then, let me give you back the time. Have fun. Have a wonderful summertime, and thank you so

much for having joined the webinar. Thanks so much. Bye-bye!
Bye, everyone. Giving back to Nathalie.

[END OF TRANSCRIPTION]