

**Transcription ICANN Dublin
GNSO session Saturday 17 October 2015
New gTLD Auction Proceeds**

Note: The following is the output of transcribing from an audio. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

On page: <http://gnso.icann.org/en/group-activities/calendar#oct>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page

Jonathan: For now at least and move on to the next area, which is - I'm just reminding myself. I think it is the new gTLD auction proceeds. So let's pick up on that now and go back to Marika.

Marika Konings: Yes, so this is Marika again and I think I can probably be relatively brief here because we, you know, we did go, I think into some detail during the last meeting and we also had a webinar last week, I believe, that some of you may have attended. So I don't think we hopefully have to spend too much time on this. So I mean, again, slide (unintelligible) I think more information than we need to cover here. You know, we cover like what are the commitments that ICANN has made today, a recap of the discussion from Buenos Aires and then some of the key takeaways there. What doesn't the discussion paper include? What input are we requesting and questions on - any questions or what are the next steps?

So, again, maybe just very briefly, ICANN has committed that it will create a separate and distinct process to, you know, determine the use of the auction proceeds, which should include broad and open participation and, you know, full and careful process for decision making at the stage when the final level of proceeds is known and I think (unintelligible) indeed starting that conversation through initial engagements that have been had with the community and as well conversation (unintelligible) GNSO council level. So a number of sessions held in Buenos Aires were indeed - it was clear that there was a lot of interest in this topic and different groups interested in participating in this.

There was support as well for indeed going ahead with the discussion paper that would kind of try to capture all the information and allow for another opportunity for input and feedback from the broader community. Both, you know, within ICANN as well outside of ICANN and regular participants on what the next steps should be and, you know, some of the specific questions we've called out.

Things - it was very interesting as well some of the feedback or input we heard through the case studies that were provided by some of the CCTLDs who have dealt with similar situations on access proceeds and how they've dealt with that and some of the processes they went through, which, you know, can provide some very interesting guidance as the community starts considering new GTLD auction proceeds.

I think I already cover this. So basically in the discussion paper, you know, really an attempt to very broadly get people to provide input on what should happen next. Encouraging participation (unintelligible) from inside ICANN, but also those that may not traditionally participate in ICANN or are not regular participants.

So the paper itself covers, you know, background on, you know, what is actually the new GTLD auction proceeds and what's the current financial status. Again, a recap of what has been discussed so far and then specifically calls out a number of questions that are expected to be addressed as part of the next steps in this process.

So some of the questions are raised, how can you insure that the focus is on development of a framework instead of only talking about how to spend money. How can you make sure that you have, you know, expert involvement and broad participation and engagement and outreach as part of this conversation? What should be the role of the board in this process? How do they participate, but also what is the expected decision making at the end of

the process when the working group comes to a conclusion and has consensus recommendations? The topic has been raised, I think by several people as well, you know, how do you deal with conflict of interest? How do you avoid that the people who are responsible for developing a framework for dealing with these funds are then directly benefiting from those funds at the end of the day.

So how do you deal with that? What is the linkage of (unintelligible) with other efforts? For example, thinking on what the CCWG accountability is doing in relation to possible changes to, you know, the mission and scope descriptions and does that impact this work and as well as, you know, definition of public interest? I think several people have indicated that, you know, maybe these funds should be spent in the public interest. What does that mean? What is the definition that we have of that? And as well, you know, how far is CCWG expected to into implementation related issues or how is implementation expected to be managed?

So the question is really, you know, are there any other approaches apart from CCWG that should be considered in Buenos Aires motion and in the community we're very supportive of that idea and, of course, it's a concept that has already been tried and then tested especially though the recent efforts in relation to the transition, but maybe there are other ways - other mechanisms that could be considered.

So the door is still, I think, open to those as well. Specific input on the questions that we raised and the paper and (unintelligible) other issues that should be considered in the next steps of the process. I've noticed that, you know, we've already started receiving some input and quite a few of those actually go into detail on what the money should be spent on. Of course, those suggestions are, you know, welcome as well, but at this stage from a staff perspective we're just adding them to an annex that has already been created for - that's already included in the discussion paper that also includes

previous suggestions and that is something we will just, you know, pass on to whatever effort takes on this work for that information.

So the public comment forum is open until the 8th of November. So you're all encouraged to provide your input. After that basically staff will look at the comments and see how to best deal with that, when those, you know, does it require updates to the discussion paper or we may provide just a separate kind of summary and comment report for the council as well as a broader community's consideration and I think then it's really back to GNSO who I think has been a bit the initiator of this process to decide, you know, do we proceed now with the cross community working group approach or is there something else we first need to do and maybe as well in that engage with the other SOs and ACs who have expressed interest in the past (unintelligible) to this topic to see if they still are as well interested in engaging and participating in a cross community working group on this topic. That's all I had.

Jonathan: (James), go ahead.

(James): So I think to your last question is if we presume this is going to be a CCWG then the outcome of this would go back to all of the SOs and ACs that would be charting this CCWG. And then if the CCWG recommendations would be submitted to the board or would those - I'm asking for a friend. If the CCWG would just simply make the final decision.

Marika Konings: No, because I think it's - you know, it is in the board's hands to decide what happens at the end of the day, but it is one of the things we've flagged as well in the discussion paper because, of course, for a PDP it prescribes very specifically what happens if, you know after the council forwards recommendations to the ICANN board, but as we don't have yet a framework for CCWGs. There's no current requirement. You know, even if we submit it to the board the board and just, oh, thank you very much and, you know, put it on the side. But if you, for example, something that could be pursued if the

community thinks it's important is having a conversation with the board if, you know, they would be willing to do something similar as they did for the CCWG account ability.

Where they, for example, did specifically outline what the process was going to be after they would receive, you know, consensus recommendations from the CCWG and maybe that is something similar that needs to be considered here because indeed if you into a process - presumably community will want to know what is indeed the end game. What happens? And also, for example, what happens if, you know, GNSO may end up adopt a recommendation but maybe the (ALAC) an another (unintelligible) organization doesn't agree. What happens then? So there are some scenarios that may need to be thought through to make sure that it's clear at the outset before the community engages in the work and you don't get into a phase where there's a lot of insecurity or uncertainty on what is going to be done.

Jonathan: So this is an important point for more than one reason, obviously. It touches up lots of different things. The nature and scope of CCWGs. Their relationship between the community and the board, which is clearly what's going on in the accountability track. There's many different areas. What I would like to say is that, (Mary) I think you're compiling a list of issues - prospective issues that we could discuss with the board. So what I'd like to do is get kind of a scratch list, which we may not, you know, some of these items may be insufficiently formed or it's just not the right day to day to talk about these things with the board, but let's get these on the list.

So we've got CCWG auction proceeds and how the board might deal with that issue. This is very early on in the process and it's clearly a sensitive issue because of the size of the (unintelligible) of the money and various other points. So if we could just - as we go through these different topics if we could just start to build those up, Volker has a list as well and we'll just put that together and then review that list. Prioritize it and decide what does and doesn't stay on there. So good questions. Thanks (James). Who was next?

Was - I've got (Bred) and (unintelligible) - so let me get - let me build a queue here. Suddenly we all want to talk about this one, which is good. So if you'll forgive me I'll walk down that way. So I'll go Phil, (Brett) and (Anne Marie) and then we'll go from there. And then we'll ignore that. So who else is on - let me just make sure I've got the list bear with me a moment. (Unintelligible) who else should I have - anyone else at the moment? Okay, go ahead Phil

Phil Corwin: Thank you. Phil Corwin for the record. Thank you for the presentation Marika. The business constituencies are preparing a comment letter on this. Its preliminary stages so nothing I say here is final, but we've believe that the funds should be expended in a way that's consistent with the mission and whatever the mission statement is might revised to be through the accountability process and purpose of ICANN.

I guess hearing that even though we keep telling everyone this isn't - this stage is not for proposing ways to spend the money people keep bring up ideas for how they want to spend the monies and that may be helpful in terms of creating a policy that gives the creators of the policy some idea of what people will be asking for, but we think the central question is going to be whether this - whether these funds, the 58 million and growing, you know, it may be more than that. Are going to going to be used for a one time round where we just - I'm sure the community can come up with ideas for how we can spend way more than 58 million one round and then we'll just shoot it out and it'll be done and some of it will be spent well and some of it will probably be wasted or whether it should be treated as an endowment fund to fund maybe five million a year over a long time and learn from the process and maybe be a place where other funds can be contributed to try to source and be a continuing resource for the community and I think we're heading toward a comment letter that suggests that whatever the final decision is whether it's coming out of the endowment fund or a onetime disbursement, and whatever the criteria are going to be for selecting projects once there's actually a time to submit ideas for how to spend it - that those who make the decision on

which projects to fund should - it should not be any formal group from the community.

It should not be the board. It should be a panel - a small panel of people with recognized internet expertise or independent of ICANN so that there's no way to completely prevent conflict of interest, but that's the way that will minimize it the most. So we look forward to participating in this project and hopefully to creating a proposal that will get support from the (unintelligible) organizations and the board. Thank you.

Jonathan: Thanks Phil. (Brett)?

(Brett): Thanks. A friend recently asked me to consider this concept and I thought it was well worth thinking about so I thought I would pass it on here. And that's that ICANN is not really very good and has no experience giving micro donations or giving grants to anybody. And maybe the better thing here is to give the entire lump sum to an organization that is good at doing that, such as perhaps giving it to the IETF in endowment, giving the entire lump sum to Doctors without Borders, but finding a group that actually has experience dealing with large sums of money and putting it to good works. And getting this off of our plates so that we don't have to, you know, debate this for months or years and I thought that was very thoughtful. And so I wanted to pass it on here.

Jonathan: Thanks (Brett) and that's probably (unintelligible) channeled in through - obviously through the public comments and or the work of the eventual working group - that kind of suggestions. Interesting. (Amar)?

(Amar): Thanks, this is (Amar). Yes, I was actually wondering - because the discussion paper and the public comment periods, to me, seem very directed towards the process of how to work this issue out. I was wondering, I'm sorry (Olivia) isn't here, but I was wondering whether others on the council would agree with me. How do we hijack this process and make it a GNSO working

group instead of a cross committee working group? I - initially I was very in favor of a cross community working group.

Over time I have changed my mind and one of the issues that I think may be challenging here is the whole membership versus participation and it's not really a matter of the chartering organization for me, but it's really just that and I know that there are a lot of people who have a lot of interest in joining this group and I think we may see people who are participating a lot more from the developing countries who don't normally participate in working groups whether they're cross community or GNSO working groups. I really wanted to just get a feel of the room and what other people thought on council of sort of trying to push for a GNSO working group on this instead of a cross committee one. And whether there would be a - like a well to sort of feed that into the public comment period that is now open. Thanks.

Man: Well, I mean, I can give you two feedbacks. I mean clearly one thought is that with - in some ways the cat is out of the bag in the sense that we've invited others to participate. You know, we initiated and the other thing that you should know is that Steve Crocker certainly seems passionate about insuring that there is participation beyond the sort of usual ICANN suspects if you like. So he seems to be interested in engaging beyond that. So that might be other (unintelligible) organizations (unintelligible) participation. I'm just letting you know that that - in the context of your question, there's that to be aware of. Did you want to respond immediately and then - I've got others.

Man: Thanks (John). Just on that point GNSO working groups are actually more open to membership than the cross community working groups are. So if there are folks from outside of the ICANN community who are not part of any of the charting organizations such as (ALAC) or the GNSO council then a GNSO working group would actually work out better for that purpose on a cross community working group would. So I think that might be something to sort of validate this argument. So, again, it's clearly an access here with the board and if we - it may be that this is the right time to have a discussion with

(unintelligible) - I'm not going to presume that yet, but we'll have that on our scratch list that we talked about earlier and let's see if it makes sense.

(Maria)?

(Maria):

Thank you very much. This is (Maria) (unintelligible) speaking. That was exactly my first question (unintelligible). Thank you for bringing this up. The document that was produced by staff mentions a couple of times a different format and I was wondering if staff has thought about a different format you just didn't want to mention and put it forward, but it would be nice to hear your ideas as well. I do feel like participating in a couple cross community working groups that a GNSO working group could be more open because we put the charter forward it tends to be membership based and those that are not members will be excluded and my impression is that working groups are more inclusive in that sense, but I do get the point of giving an impression that are involved in the community and I do understand why the board wants that.

So I would support raising this issue with the board. Just a couple of points on the document that has been produced. I know that there is a clear separation between the new detailed application fees and the auction fees and it's very good that there is the separation actually. But I was just wondering that maybe know in terms of the money that has not been spent in the application fees would be something that would be relevant and useful for those in the working group to understand how better to apply the fees coming from the auctions. So I think that even though practically speaking both are not connected in terms of discussion it would be a positive if working group members have access to this information. The breakout of expenditures or money that is not being currently spent on the application fees as well. So it would be nice to look into that.

In terms of linkage with other efforts, there is another linkage that I think would be relevant, which is to link with the discussion on the new detailed subsequent procedures. We are discussing in this topic how we could do to

engage more and guarantee more geographical diversity on the next round and one of the options to do that would be to use the auction resources for this. So I think both are connected to so it's another linkage. Thanks.

Jonathan: And on that point of the location of funds and what's available it might be worth actually just getting a status update either with the board or when we do - when we have the operational - we have an operational update at 1:00 after lunch. It may be worth just understanding - I mean one of the most significant and expenditures that's going on right now is the funding of the accountability programmer and I mean I've had some early insights into legal fees and some of us have seen them anywhere. There is enormous expenditure going on with travel and legal fees and so on.

So, you know, I think that will make a realistic and material dent in - and that's not going to effect the auction funding, but you link auction funding and remainder fees from new GTLEs and I think that's kind of reserve fund might be worth trying understand where ICANN's - you know, an up to date sketch of where ICANN's finances are independent of the auction fees. I had - next was Carlos and then (Stephanie).

(Stephanie Paren): Thanks, Carlos, (Stephanie Paren) for the record. I should perhaps preface my remarks by saying that I think this whole procedure has all the appeal of a nice messy estate settlement fight and in that respect I'd like to express support for what (Brett) was saying. I think that the prospects of ICANN melting down over this are pretty good, but I do think that we need to look at the upcoming expenditures before we start giving it all away. Because if you look at - I'm on the PPSAI working group. If we start implementing this not only is it, as (James) said, a heavy lift, but there could be new costs. We're going to price these things out of existence and we haven't even started the RDS. And if we do that one properly it's going to cost a bundle. Same rule applies. So the haste in disposing of all of our funds I question it. You know? Just want to put that on the record. Thanks.

Jonathan: Good point. I've got Carlos and then Phil and then we're going to close it - okay, (Tony) and then Phil and then we'll close it.

Carlos Souza: I don't want to - this is Carlos for the record, but together what Phil and Brett and (Amar) said, when I read the paper I was surprised that some ideas and proposals floating around are really not realistic in terms of this being a non-reoccurring income. This is exceptional income and so you can drop at least half of the proposals already and Phil has talked about endowment and so on and I want to come back to the meeting with (Xavier) we had last time. I mean he spoke about two reserves around \$80 million and when we look at the budget, (Amar) and myself from the GNSO, you can fail to notice that there is not a balance sheet for this operation. This is a purely project finance way of spending money the way the numbers are presented here.

So I really agree with you that we have to focus this not only with the board, but with the meeting with (Xavier) and the GNSO should take the next round of budget commands much more seriously than we did this time. And spend much more time and (Sharon) has worked very heavily in the CCWG on the budget issues, but I think this is a major step for this corporation to become really - a real corporation and present a balance sheet and then from then go on and look at reserves and other non-occurant income. So it really - it's a black whole. Thank you.

Jonathan: Okay, I'm just going to move quickly down the queue then and go with (Tony), Phil and a response from (Maria) and then we'll call it a day (unintelligible). So let's go (Tony).

(Tony): Okay, thanks Jonathan. I just wanted to throw in another issue here because (unintelligible) accept everything that's been said the remarks about no quick decisions and everything else. Before we even think about possibly giving the money away, one of the concerns we have (unintelligible) is certainly around universal acceptance and there's a lot of effort going into that and it's still going on. And the board have supported that by offering some funding. We

believe there may be elements of universal acceptance - mainly to carry on for quite a while. And I don't want to go into too many details here, but one of the issues around this is that it may be appropriate to consider that as a potential issue for funding. Because that provides a platform where that degree of funding could carry on for quite a while. But there we're given the money to something, which really has a direct link to how we obtained the money anyway. And I think the success of the new GTLDs is something that should be at the front - the forefront of all of our thinking. So just want to counter that with the other approach that was put forward here. It's something to think on as we move forward.

Jonathan: Time is short (unintelligible) it does strike me that there's some really interesting ideas and some of it is about, you know, there's some really key points coming through here. So we may need to try and pick this up elsewhere, but for the moment let's just get through the list, have a couple of more comments and then take a break. Phil?

Phil: Yes, Phil for the record and just responding briefly to some of the other comments. On (Brett)'s idea of giving it to third parties to distribute. I think that's worth considering though I would say if we're talking about (IETF) or (ISOCK) or some group like that, okay. If we're talking about Doctors without Borders are a fine group, but I don't see any real relationship other than having a website to their mission and purpose of ICANN. They're in a different area.

(Stephanie), with all respect, I think the one thing the board has said that I agree with totally that this should not be used for ICANN operational expenses. I think the moment we open up that possibility when we look at the fact that they increased staff ranks by 150% in 18 months, open two more hubs, opened (unintelligible). The ICANN machine will suck up these funds in a heartbeat if we open that door. I think we need to keep their use to purposes consistent with the mission and purpose of ICANN, but not for regular operating expenses. Thank you.

Jonathan: Thanks Phil. (Maria), you get the last word.

(Maria): Thank you Jonathan. This is (Maria) speaking. I just would like us to be careful when we use expressions like to give away the money. I think that options that benefit the community (unintelligible) or the ICANN community itself should hardly be considered giving the money away. I think that the money is very important to address some historical geographical balances that we have in the (unintelligible) markets because of failures that we had in the past in producing policies coming from these organization that would address this historical imbalances.

So - and there is no hasten here. Just procedures should have been in place when we launched the round in the first place. The fact that we are doing this now means that we did not think the process all the way through. So I think that it's long overdue and we should do it and I completely agree with the comment on not spending this money on operational procedures. Policy development should be self-sustainable. Thanks.

Jonathan: Okay, great. So it's clear - just to - I mean all of us are tempted to go into elements of how it could or couldn't be used, but it's very clear that's what's going to be required here is sort of - and don't forget we are the managers of the process. So our role is constraint there. I mean it's good that we have some thoughts and ideas, but those should really be coming in through the different groups and ultimately into the working group that does that.

So really what we need to satisfy ourselves about ultimately is that we've got the right structure, CWG or not that all of the right processes are in place and that this work can be done at the right time and at the right speed - whatever those might be and so let's bear that in mind and this is going to be an important piece of work. So thanks. Let's take a short break now.

END