

**Transcript ICANN Marrakech
GNSO Session Saturday, 05 March 2016
Cross-Community Working Group on New gTLD Auction Proceeds Drafting Team**

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James Bladel: We'll get an update from him on the gTLD auctions proceeds drafting team. So I'm just waiting for a sign from staff. And there we have it. Okay, Jonathan, it's all yours. Thanks.

Jonathan Robinson: Okay great. Thanks, James, for the welcome and the reassuring words. Hi, everyone. Good to see you and I'm glad I'm not in the hot seat today or at least on the sideline as far as that's concerned.

I don't have a set of slides. We're very early in the work of this group. But let me make sure that everyone is clear on the background of where we are in this work, give you a little update on the first meeting and then see if there's any questions or issues arising.

I think we can do this pretty quickly. As James said, we're – your coffee break was scheduled for 10:30, it's 10:39 now. So let's have a look.

First of all we're talking about the funds generated through the so called ICANN auction, in other words any work that's done between the participants in private auctions doesn't come into this. These are the sort of end of the road when the contestants for a particular string haven't been able to resolve their position and are participating in ICANN run auction. Ja

I don't know how closely any of you have been tracking this. But the gross proceeds from those ICANN auctions have taken quite a significant leap in the recent past. And now stand at around \$105 million. The net proceeds are

just north of \$100 million, around \$101 million. So this is a sizeable sum. And it's going to attract attention, if it hasn't just attracted yours.

So it has been and will remain a high interest topic to the broader community, to the ICANN Board who are paying close attention to it for obvious reasons. I think there's some strong personal interest there as well as the fiduciary interest, and also an interest from the broader community. So it will attract attention. And the key challenge for this group will be to work through it systematically.

And some of the background, the GNSO we proposed a CWG to deal with this as seems sensible. Other organizations expressed an interest and have now joined in and are going to be chartering organizations in that CWG. That will exclude at this stage the ccNSO, who may join at a later stage. But currently have said they're willing to assist but aren't participating as a chartering organization. My sense is that they see these as GNSO-derived funds and therefore in some way it would be inappropriate to participate but, you know, that may change.

We had in the Buenos Aires ICANN meeting a high interest session and a workshop, two separate sessions, which really talked through and around the topic and how this might work. And the outcome of that was a so-called discussion paper, a background document that tried to capture community discussion to date. Staff assisted substantially in the preparation of that.

And it was then put out to public comment for further input and refinement. So there's been quite substantial chewing over of the ideas to date. And that produces a very solid reference point for both the drafting team and the cross community working group that's likely to follow.

So the drafting team put out its call for volunteers. And your GNSO representatives on that are myself and Tony Holmes, opposite me.

Tony Harris: I'm sorry, my name is Harris.

Jonathan Robinson: Sorry, Tony Harris. Apologies, Tony. I should have warmed up better. Tony Harris, apologies Tony. So that's myself and Tony Harris on that group. And the drafting team has now been formed and we had our first meeting on the 23rd of February.

It's likely to follow the standard route of a cross community working group that is – that is coming to be defined and it is in essence defined by the recent – recently published output from the work of the group – a cross community working group defining the operating procedures for cross community working groups. And there's been some exchange of letters from – between the GNSO and the ICANN Board on this.

I think the key points from the first meeting, which was, as I said, only held around 10 days ago, was clearly the drafting team was tasked with designing – with developing the charter for the group. One of the key challenges going to be is making sure that the drafting team does what a drafting team should do, and doesn't seek to solve all the problems. It's really about scoping the work of the cross community working group to follow.

And there's a template for that group based on the cross community working group principles. And that charter will of course ultimately be put forward to the chartering organizations for their consideration.

We have a chair elect of that drafting team, which is myself, together with a vice chair, Alan Greenberg from the ALAC, and that's the likely leadership group, or if you like, going forward. I'll work closely with Tony Harris from a GNSO point of view. And we have – the Board has put forward a couple of members to participate.

It wasn't initially clear whether the Board was putting those Board members forward to participate in the cross community working group to follow or

indeed in the drafting team but my understanding is now they will participate in the drafting team. And that is – there are two Board pts are from the audit and finance groups on the Board so clearly with a strong interest in the financial side of things.

The group plans to meet again here at the ICANN 55 meeting in Marrakesh and start to do the work on fleshing out the charter. So I think that's probably enough given both time constraints and the very early stage of things. But happy to hear any comments, questions or input at this stage. Thanks, James, back to you.

James Bladel: Thanks, Jonathan. And appreciate that this is just getting started. What do you believe will be the next major milestone coming from this group?

Jonathan Robinson: I guess it's that the charter, I mean, that's the output from this group is to produce the charter. I think we've got to work deliberately and carefully with all of this. There's two reasons for doing that. One, the size and substance of the issue and the interest it takes. And, two, the recognition of quite how otherwise preoccupied and engaged everyone has been to date.

So I guess my personal concern is is that a very small group of us kind of move fast and don't bring others with us on this. So I think that's the responsibility we've got is to get on with it but get on it with at a sort of measured and – in a measured and organized way.

James Bladel: Thanks. Questions from the room for Jonathan on this effort that's just being born? Marilia.

Marilia Maciel: Thank you, James. This is Marilia Maciel speaking. My question is about the exchange of letters between you and Steve on this point. I think that the Board raises some interesting points of guidance to the work that may be taken into account while developing the charter. And one of them is related to avoiding conflict of interests. So more specifically they talk about that it

should be clear that separation of those citing the general directions, those two specific projects and receiving the funds, should be made.

And I find this a good direction but I wonder how do you plan to reflect this in the charter? If there has been some discussion? And with regards to that, how to put this on paper in a way that's it's more clear to the community? Thanks.

Jonathan Robinson: That's a very good question. And there has been no substantial discussion on that. But I think it's – as that starts to form I think it's going to be a really important point because the natural inclination might be from those who are interested in ultimately in some way either participating or directing where those funds might go will be to seek to influence this part of the process. And I think there's a warning in there that says, look, if you see yourself as a prospective applicant or beneficiary from such funds for goodness sake, don't conflict yourself out by getting involved in the design of the process as a mechanism to divide up those funds.

So I think I can't predict exactly how that's going to come out in the way that you suggested and Tony may want to say more but that's my sense of it's almost a kind of early warning to participants to be careful how they get involved or if they get involved at all if they think they're going to be strongly involved in the subsequent application of those funds.

Let me hand over to Tony as a colleague on...

Tony Harris: Yes, for the record Tony Harris. I can't access the Internet so I don't have access to the document so I'll have to speak from memory. But I do recall, and perhaps Marika can help me here, that in the draft charter we're looking at it seems to me that there is a mention there that there are three different – let's say three different factors involved in, excuse me, in conflicts of interest.

So you have like the implementer, those who decide where the funds go, and there was another one, I don't have the document here. But getting to your question, that has been addressed. And I think there is some text in what we're looking at already in place. Okay? Thank you.

James Bladel: Thank you, Jonathan and Tony. Edmon.

Edmon Chung: Edmon Chung here. Just a quick question. On the session that you mentioned, the meeting here that will happen in Marrakesh, I'm just curious why it was listed as closed session, maybe it was just a mistake. If it was then probably should correct it because it's probably not a good perception for this particular discussion. If it is intentional just curious why.

James Bladel: Marika, you want to address Edmon's question?

Marika Konings: Yeah, this is Marika. We basically requested that meeting before the drafting team was even formed. And it's easier to move sessions around if they are listed as closed. So that's basically why we've listed it as such in the schedule. I mean, I don't want to speak for Jonathan but I'm assuming if anyone else shows up they're happy to sit in. But it's really intended as a small meeting of the drafting team to discuss their next steps, not intended as a community outreach discussion session.

Edmon Chung: Yeah, and this is just the perception of it probably should keep it open as in – because it's listed in the agenda and everything, right so in the future when people look back at it it's kind of closed meeting.

Jonathan Robinson: That's a good point, Edmon. I mean, as Marika said, the intention is to have a small meeting of the drafting team. But certainly as is the spirit of the way in which these are conducted at ICANN meetings, there's no – nothing to stop anyone else coming along and listening in and/or contributing. But I suppose one thing just generally as a point to the drafting team is designed to be a relatively small and tightly scoped piece of activity. The substantial and

significant content should really be done in the working group. And so to some extent it reflects that but by no means does it mean to say it's behind a closed door or locked away. Thanks.

James Bladel: Thanks, Jonathan. And our last question on this topic comes from Paul McGrady. Paul, are you able to speak?

Paul McGrady: Paul McGrady...

((Crosstalk))

Paul McGrady: Yes, thanks James. Paul McGrady here. So, Jonathan, I have a quick question on the conflicts issue, which is how does – how will we get new ideas then if somebody participates in the process won't be eligible how will – how will we get new ideas?

You know, perhaps there's a nonprofit out there that has an innovative idea about how they could use technology and maybe their main industry is not Internet or domain name related, but they would like access to these funds using the technology of our industry but if they pass along their idea or wish to be involved in some way that would – would that – in fact that would preclude them from being able to receive the funds. And so that seems like it's a catch 22 where we can't seem to get access to those new ideas. How are you guys dealing with that problem?

Jonathan Robinson: So without preempting the work of either the drafting team or the CWG, my sense of and understanding of the way this should work is that what the output should be is an effective structure and mechanism that organizations can then deal with in order to access the funds.

So the purpose of the drafting team and the CWG that follows it will be not – the primary purpose will not be have anything to do with the disbursement of the funds rather the mechanics of how those funds are disbursed and/or

issues like are they replenished or is this a – is there any mechanism for replenishment. It's about mechanics and process rather than where these funds will actually end up. And that's the process that goes on beyond the work of the CWG.

So it seems to me that in no way should this preclude any organization coming along to the final structure and saying actually according to the final structure I qualify and I would like to apply for funds based on these qualifications.

James Bladel: Okay thanks, Jonathan. Appreciate that update. I know this effort is just getting started. And just a couple of comments. This is a topic of discussion as well for our interaction with the Board tomorrow particularly I think to some of the questions of how the involvement of – or the participation of the Board members and the drafting team – I'm sorry – and the staff members that they've identified will roll out onto the drafting team.

And then the second one is to note that this is in fact drafting a charter. There is a working group to come and then that working group will then kick off a process. So pigeon-holing Jonathan and Tony and some of the other members of this drafting team with ideas about funds and disbursements is probably extremely premature at this point and maybe not a good way to spend a coffee break.

So thank you, Jonathan. And we can pause the recording for now.

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