**High-level notes – Auction Proceeds CCWG Face to Face meeting at ICANN65**

**Wednesday 26 June – 8:30 to 12:00 local time**

**Welcome**

* Substantial amount of time available today – aim to make substantial progress
* Once all outstanding issues are addressed, the group will need to determine whether or not a public comment period is needed
* Need to wrap up our work – the group has been going on for too long
* Brief overview of goals and objectives of CCWG was provided
* Reporting may be different depending on the type of funding that is provided or the type of project involves (e.g. grant vs. project funding).

**Action item 1: CCWG to consider whether further guidance needs to be provided on if/how reporting needs to differ depending on the type of funding and/or project that is supported.**

* Regardless of the mechanism, the actual selection of the projects is not going to be done by ICANN Staff – graphics produced by ICANN org to illustrate key elements of the mechanisms aim to make that clear
* Is the current design of the new gTLD applicant support excluded from receiving funds due to the set up and/or timing? Should that be reconsidered as that was one of the original objectives for use of the auction proceeds funds? There is a difference between capability building vs. taking on the costs of submitting an application.
	+ This could be a potential question to ICANN Legal – what are the implications of using auction proceeds where there would be a dependency that could prevent an applicant from running a gTLD once those funds would no longer be available? In the previous round applicant support funds came out of the ICANN operational budget. Would that prevent it from being in scope from auction proceeds?
* Only legal entities can apply for auction proceeds funds and there should be no conflict of interest.
* All public comments received on the Initial Report have now been reviewed by the CCWG. The group identified high-level outstanding issues following this review.

Examples of high level outstanding issues:

* Should the CCWG address “grey areas” related to what falls within and outside ICANN’s mission? If so, how?
* What edits are necessary, if any, to address the limitation that funds may not be allocated to projects that fall within ICANN’s operational budget?
* Do any adjustments need to be made to recommended objectives of new gTLD Auction Proceeds fund allocation in light of recent CCWG discussions?
* What role should the ICANN community play in the new gTLD Auction Proceeds fund allocation mechanism?
* Should any additional mechanisms be eliminated from consideration and/or de-prioritized in light of public comments and subsequent CCWG discussions?
* Is an additional public comment period needed prior to publication of the Final Report?
* Comment from a member regarding the use of funds for outreach activities -- funds from auction proceeds should not be transferred into ICANN, but should be allowed to be spent on projects that are congruent with ICANN’s mission.

**Overview of the draft Final Report:**

* Changes are redlined from the Initial Report text based on agreements from the group.
* Items that require additional consideration or input are highlighted in the right margin. Administrative items that require additional edits are also highlighted.

**Graphics**:

* Developed with the support of ICANN Comms team. Intended to help visualize the attributes of the different mechanisms, open items as well as commonalities between the different mechanisms. The graphics may assist with reducing misconceptions about the different mechanisms. The work is intended to help move towards wrapping up work and reaching the Final Report.
* Comment from members – The colors chosen for the headings of the columns may have unintended consequence – people have positive and negative associations with different colors (for example blue is good and red is bad). Colors should be adjusted if the graphics are used in the future.
* Add a short description of each mechanism in the header row to distinguish more clearly between them.

Review of questions for CCWG input (“homework assignment”):

* The list has been reordered to ensure that large outstanding items are discussed first by the CCWG today.

#10 (Annex C and Section 4.2): Are any additional updates needed to Annex C in response to Board feedback?

* The CCWG reviewed the input and agreed that no further changes are needed at this stage, although the text might benefit from adding the Board’s clarification about gating considerations to the start of this section (1. Must be within mission 2. Must not be part of ongoing operational funds). If these gating questions are added, itmay require reorganizing the original questions (not to phrase one in the positive, or one in the negative)
* CCWG members will review draft text produced by the small group and added to Annex C. Text from this paragraph referring to examples in Annex D should be removed if the group decides not to include examples in the Final Report.

#5 (Section 5.2 regarding specific objectives of fund allocation and corresponding text in 4.2): Is this language overly broad? Should it be revised in light of recent CCWG discussions? Are there any additional questions the CCWG needs to ask Org/Board to resolve this issue?

* Leadership believes all outstanding issues here have been addressed, noting that some edits have already been made. No objections were raised from the group.
* Question from member – looking at the language, would government lobbying fall under objectives as described? Answer -- no, lobbying is excluded as a result of legal & fiduciary requirements discussed in other sections of the report. No additional changes are needed to the objectives to reflect this constraint. ICANN Legal provided confirmation of this point.

#11 (Annex D): Do you have any initial thoughts about whether adjustments need to be made to the CCWG’s approach to Annex D (Example Projects)?

* Question still needs to be submitted to legal: are there legal concerns about the current approach to Annex D. Group could still have initial discussion about how to deal with this list, and Legal may be able to provide input in the meeting.
* There is a risk that some could understand this list as an endorsement of certain projects and it would tempt applicants to submit identical projects. Could cause confusion and possibly lead to use of accountability mechanisms or criticism of the efficacy of the program.
* One possibility is that this list is just provided to evaluators and not included in the Report. It was noted that evaluators will have to be given additional guidance in various forms in addition to such a list.
* At the same time, there are no detailed descriptions of projects in this list, only headlines, so is there really any harm in including them to help give context? It could be a useful guide and other funders provide lists of examples to assist potential applicants.
* It is highlighted in multiple places in the text that this is an illustrative list.
* Note also that once applications start, there will be a public record of what is funded or not at which stage any examples become moot.
* Feedback from ICANN Legal -- The less specific the example list is, the better it is, for example by not referring to specific organizations and instead talking about general categories. Note that some of these updates have already been made based on previous comments.
* Additionally it is important to note that regardless of whether the CCWG believes something is within mission, in the end it is the ICANN Board who is the arbiter on what is within ICANN’s mission. CCWG’s perspective on this issue cannot be binding to the Board. May need to be more specific about that?
* Many other organizations also make a list available and that does not seem to create any issues. No objections noted to making this list public.
* Consider making it more broad concept projects?
* CCWG discussed that there should be no formal appeal process, but applicants should have the ability to go back to evaluators if they believe that something was misunderstood or missed in the evaluation process.
* Bylaws carve-out needed regarding accountability mechanisms – may be worth to consider whether a second public comment period on the report could shorten timeframes on the bylaws change, if that is going to be needed.

**Action item: Staff to draft language to reflect that no formal appeals process will be used but applicants will have the ability to go back to evaluators to highlight if it is believed that something was misunderstood or missed.**

**Action item: Staff to put forward suggestions to strengthen disclaimer to make clear that the example list is not limiting in any way as well as that the Board will make a determination on whether something is within ICANN’s mission or not.**

#6 (Section 5.2): Do you have any input on the potential role advisory role for the community?

* Erika and Alan have been working on draft language for this item.
* One possible role was a resource to the selection group to help handle edge cases and answer questions about the selection process. The second was an advisory panel that would do a regular review of the process and projects. People in the group could be nominated by SO/ACs, potentially with some sort of selection process to make sure that people have the right skills
	+ Regarding the resource to evaluators - how likely / often would this group be needed? May have limited work?
	+ Review function would be more resource intensive, could do a review every 3/5 years of the program.
	+ Not clear yet whether that should be the same group or a different one.
* What edge cases would advisory groups opine on? For example, if there are questions about the mission, a different path may be appropriate to answer these questions.
* Concerns were expressed about potential conflicts of interest. Maybe there are ways to mitigate those concerns, for example liability agreements and CoI agreements? Perhaps guidance should not involve individual applications, and should instead be about general direction / guidance?
* Maybe this should be taken together with the regular review? Panel could discuss before first batch comes in, would discuss with evaluators and then after completion, review process and then after x years. Also need to consider how it is composed. Available as a resource but not in relation to individual applications.
* Need to consider how this impacts the overall model. Multiplication of parties involved in the process may make it less transparent and more complicated.
* Need to also consider educational opportunities / training tools for independent evaluation panel which may be an alternative way for the community to provide guidance.
* Comment: Many grantmaking organizations, e.g. outside charitable org develop a point system for evaluating grant applications. The points or percentage points align with the grantmaking guidelines. This makes it much easier to defend grantmaking decisions as objective if challenged.
* Consider adding this to the guidelines as something to consider during implementation.
* Should this be a community review or is this a professional review or a combination?

**Action item: Alan and Erika to further revise language regarding role of the community and share with CCWG.**

#3**: Are there any new factors or considerations that the CCWG should take into account from public comments or subsequent CCWG discussion as the CCWG re-evaluates whether any of the mechanisms should be eliminated from consideration**

* In the Initial Report, mechanisms A and B are discussed in the greatest depth and are the focus of responses to the charter questions. Mechanism C is also included. Mechanism D has been set aside.
* The CCWG needs to better explain why a certain mechanism is chosen over another.
* In the preparation for the Initial Report, some may have expressed a preference based on a misunderstanding of how the different mechanisms would work in practice.
* CSG has expressed concern about reputational risk for mechanism A and has expressed preference for mechanisms B or C. CSG prefers to send two recommendations to the ICANN Board. Would be very disruptive if the Board would overrule whatever is recommended by the CCWG.
* Reminder that under any of the mechanisms selected, it will be an independent panel evaluating the grant applications.
* Additional comment - If someone within ICANN has the power to hire and fire grantmaking staff, independence will come into question, if only via the appearance of impropriety. May need clarity on how contracting would work and where the controlling relationship resides? Xavier notes that the CCWG will set the principles and requirements, but the exact design of the mechanism will be part of implementation.
* Ideally there is one recommended mechanism, but if that is not possible, not more than two. In the case of two, Mechanism A and Mechanism C may be acceptable to all? Could also consider taking A and C for public comment and see if it is possible to settle on one mechanism?

**Action Item: Jonathan, Marilyn and Erika to come together and put forward an approach.**

* Should an additional public comment period be opened?
	+ Possible alternative to public comment is to go to SO/ACs with specific questions. For example, the CCWG could ask SO/ACs for input on narrowing the list of recommended mechanisms.

**ACTION ITEM: CCWG to further consider whether or not an additional public comment period is needed once full scope of changes to the report is clear. CCWG also to consider alternative paths for seeking input, for example, by directly reaching out to Chartering Organizations, or conduct a very targeted public comment forum. Staff to follow up with legal to confirm whether a public comment forum prior to ICANN Board consideration will be opened regardless of whether the CCWG conducts another public comment period or not.**

**ACTION ITEM: Staff will update the outstanding questions document by marking what has been completed. Staff will make updates to the report based on today’s discussion. CCWG will review documents and provide input - Deadline for review of report – 19 July.**

* Next call will take place on 31 July