

Summary of comments receive on initial version of the discussion paper on New gTLD Auction Proceeds Discussion Papers for drafting team

The table below summarises comments received in relation to the discussion paper on New gTLD Auction Proceeds which were noted as being for the attention of the drafting team ('DT').

The comments were received from the following community members:

Organisations and Groups

Name	Submitted by	Initials
At-Large Community	At-Large Staff	ALAC
Donuts	Mason Cole	DO
Business Constituency	Steve DelBianco	BC
Government of India	T. Santhosh	GI
W3C	Daniel Dardailler	W3C
Registries Stakeholder Group	Stéphane Van Gelder	RySG
IPC	Greg Shatan	IPC
Centre for Communication Governance	Puneeth Nagaraj	CCG
I2Coalition	Christian Dawson	i2C

Individuals

Name	Affiliation (if provided)	Initials
Christa Taylor		CT
John Poole	DomainMondo.com	JP

#	Comment	Who	How Addressed
Topic 2 – Comments related to the proposed next steps / issues to be addressed as part of next steps			
1.	<p>Focus on Framework Development:</p> <p>The goal of the CCWG is to deliver proposal(s) on the use of the gTLD Auction Proceeds that best benefits ICANN stakeholders. The primary stakeholders will include ICANN and its mission, gTLD registries who provided the funds and registrants who were sought to benefit from ‘promoting competition, consumer trust, and consumer choice’ (ICANN. (2009, September 30). Affirmation of Commitments by the United States Department of Commerce and the Internet Corporation for Assigned Names and Numbers. Retrieved from https://www.icann.org/resources/pages/affirmation-ofcommitments-2009-09-30-en) and ‘increased choice by facilitating competition among registry service providers’ (ICANN, Frequently Asked Questions. Retrieved September 18, 2015 from http://newgtlds.icann.org/en/applicants/global-support/faqs/faqs-en). Other stakeholders include those defined in the European Framework for Quality Management (EFQM): “a person, group or organization that has a direct or indirect stake or interest in the organization because it can either affect the organization or be affected by it” (ICANN. (2015, July 22). Charter – Enhancing ICANN Accountability. Retrieved from https://community.icann.org/display/acctcrosscomm/Charter).</p>	CT	Updated relevant section to clarify that Charter should also include ultimate goal of CCWG. Communicate input to DT tasked to develop a charter for CCWG.
2.	<p>Intelligence Gathering/Expert involvement:</p> <p>The draft report should be provided to either ICANN’s existing Auditors, BDO or another similar firm to review and minimize the risk of implementing the recommendations without any implications on ICANN’s not for profit status. Exploring the applicability of existing work on Universal Acceptance and research from CCT-RT Committee from Nielson research should be evaluated for their insights into new gTLD metrics (see below).</p>	CT	Communicate input to DT tasked to develop a charter for CCWG as well as CCWG.
3.	<p>Board Involvement:</p> <p>The CCWG should determine the use of funds over a Board led effort on how the gTLD auction funds should best be utilized.</p>	CT	Communicate input to DT.
4.	<p>Conflicts of Interest:</p> <p>The existing Conflicts of Interest Policy should be strictly adhered to.</p>	CT	Communicate input to DT.
5.	<p>Participation:</p> <p>The model used for the CCWG-Stewardship and CCWG-Accountability employs a high level of participation and believe it would best serve the use of auction funds CCWG. The process needs to be transparent and encourage global participation along with involvement from stakeholders who provided and expected to receive benefits from their funding while being consensus driven.</p>	CT	Communicate input to DT.
6.	<p>Linkage:</p> <p>With \$58.8 million in funds currently on hand and with the potential for additional funds to be received through auctions, utilizing the funds in a systematic, periodic method an evaluation of the results will undoubtedly become part of the plan. As such, performance metrics on the benefits received from each activity undertaken should be reported on. Utilizing existing metrics on consumer awareness, perceived consumer choice, experience and trust of new gTLDs and the domain name system provided by the GNSO and ALAC should be reviewed for their application to the benefits received from the utilization of auction funds (66 of these were agreed upon in the IAG-CCT). A portion of the high priority metrics have already been assessed and reported upon by Nielsen research as part of the IAG-CCT. Proposing the utilization of existing metrics is not suggesting that new pertinent metrics also be contemplated.</p>	CT	Updated relevant section to indicate possible linkage with IAG-CCT. Communicate input to DT tasked to develop a charter for CCWG.

7.	<p>Implementation:</p> <p>The CCWG - gTLD Auction Proceeds Working Group needs to investigate the most effective use of current and future collection of funds that provides measurable benefits to stakeholders. The framework and principals along with the development and use of the auction proceeds should fall within the working group's mandate.</p>	CT	Communicate input to DT tasked to develop a charter for CCWG.
8.	<p>We recommend that the drafting team is made up of at least 2 persons per chartering SO/AC and with representation from all SO/ACs that indicate an interest.</p>	ALAC	Updated Discussion Paper to reflect proposed approach with regards to DT
9.	<p>The ALAC further recommends that any charter reported broadly:</p> <ol style="list-style-type: none"> 1) Affirms the principles of openness and transparency in allocation of funds, 2) Embraces the concept that the use of the auction proceeds should be in tune with the ICANN Strategic Plan; confidence in the Domain Name System <p>Must favour extending the global public interest in concrete ways and endowing the Affirmation of Commitments, especially as they converge on consumer trust and confidence in the Domain Name System.</p>	ALAC	Communicate input to DT tasked to develop a charter for CCWG.
10.	<p>Auction proceeds must be applied in a manner that directly supports and aligns with ICANN's Mission and Core Values</p> <p>Donuts supports the principles identified during the New gTLD Auction Proceeds Workshop during ICANN 53 and outlined in Section 3.2 of the discussion paper. Of these, we believe that it is of foremost importance that auction proceeds be used in a manner that directly supports ICANN's mission and mandate to "coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems." The outcome of this process must also take into account the ICANN's Core Values, which include a commitment to "[respect] the creativity, innovation, and flow of information made possible by the Internet by limiting ICANN's activities to those matters within ICANN's mission requiring or significantly benefiting from global coordination." These principles should guide the working group on auction proceeds through charter development, idea generation, and selection.</p>	DO	Communicate input to DT tasked to develop a charter for CCWG as well as CCWG.
11.	<p>At this point in the consideration of how to use these auction proceeds, the BC has a greater interest in the principles guiding the charter drafting team and subsequent working group than in any particular outcome regarding specific uses of the proceeds. As such, we would like to contribute to the development of principles for the ultimate entity that will be making decisions about use of the funds, and for the chartering group.</p> <p>The BC believes that the development of guiding principles should be the focus of both the drafting team and the working group, and that the guiding principles should be consistent with with ICANN's Mission Statement and its limited remit. We note that ICANN's Mission and bylaws may be revised as a component of the Enhancing ICANN Accountability process. Given the potential for revisions to ICANN's Mission Statement, we believe that the completion of any Policy Development Process regarding the use of auction funds should be deferred until Mission Statement revisions are finalized. The scope of ICANN's defined Mission will be a critical matter to guide funds disbursement.</p>	BC	Communicate input to DT tasked to develop a charter for CCWG so that potential timing considerations can be factored in.
12.	<p>Additionally, the BC recommends that the group developing principles for disbursement:</p>	BC	Communicate input to DT

	<ol style="list-style-type: none"> 1. be chartered to develop standards or best practices rather than to identify potential projects or beneficiaries to which funds should be allocated 2. give prominent consideration to ICANN's legal status as a nonprofit and its paramount need to maintain that status 3. somewhat greater weight should be accorded to the views of the GNSO given the fact that the auction proceeds arose from a new gTLD process developed by the GNSO 4. specifically designate the ICANN Board as a stakeholder whose views should be accorded serious consideration 5. ensure the participation of the broader global Internet community and consideration of its ideas and suggestions through one or more public comment periods soliciting feedback on the CCWG's preliminary work product 6. ensure that no party in the WG—whether SO, AC, or Board—should have any final control over the disbursement of auction funds 7. define beneficiaries and purposes that are not allowed, such as ICANN general operations; and establish a working definition of “conflict of interest” that negates potential favoritism toward ICANN insiders while recognizing that worthy project ideas may be submitted by individuals and entities with a history of ICANN involvement 8. have substantial consensus support for its draft 9. ignore project-specific proposals; and alert proposers that such ideas will be considered, after the working group concludes its activity, by the funds allocation group to be established as a result of the CCWG's efforts 10. stress test its final recommendations against any actual conflict of interest or appearance thereof, by giving the funds allocation group final decision-making authority 11. eliminate opportunities for self-dealing by any individual or group within or related to ICANN, including consideration of ensuring that the funds allocation group is composed solely of individuals who are aware of ICANN's mission and of the global public interest of Internet users but who have no present direct contractual or other business relationship with ICANN <p>set benchmarks regarding efficiency of fund usage and avoidance of wasteful expenditures, including excessive administrative costs</p>		<p>tasked to develop a charter for CCWG as well as CCWG.</p>
<p>13.</p>	<p>Framework development:</p> <p>Considering the focus of the framework would involve considerable financial planning and management of the new gTLD auction proceeds, it is important to have clear, transparent and accountable financial oversight measures. At the stage of discussions where the foundations of the framework is being developed, it is imperative that the model adopted be grounded in strong principles of accountability.</p> <p>In this regard, there are many accountability guidelines that are useful for this purpose. Specifically, there needs to be a focus on the components of accountability (such as transparency, compliance and enforcement), as well as on financial accountability guidelines. The accountability discussions in the CCWG Accountability stream also hold relevance to this work stream. Any decisions on use of funds should keep in mind the public interest, as well as the differentiated requirements and interests of various regions and sub-regions.</p>	<p>GI</p>	<p>Updated relevant section to indicate accountability aspect. Communicate input to DT tasked to develop a charter for CCWG as well as CCWG.</p>
<p>14.</p>	<p>Intelligence gathering /Expert involvement:</p> <p>It is essential that experts in both law and finance are consulted/ included. There also needs to be a focused effort to ensure that all relevant intelligence is gathered,</p>	<p>GI</p>	<p>Communicate input to DT tasked to develop a</p>

	including on the possible uses for the proceeds.		charter for CCWG
15.	<p>ICANN Board involvement:</p> <p>Since the primary aim of any decision making process would be to channel funds from the auction proceeds to appropriate destinations, the framework developed should aim to limit the role of the Board appropriately and keeping in mind conflict of interest principles.</p>	GI	Communicate input to DT tasked to develop a charter for CCWG
16.	<p>Conflict of Interest:</p> <p>In addition to ICANN's Conflict of Interest Policy and other corporate governance documents adopted, the framework developed must factor additional safeguards to prevent conflict of interest issues arising. While demarcating conflicts of interest and the types of conflicts that may arise, the practices of global organisations such as the World Bank and the WHO could be useful reference points.</p>	GI	Updated relevant section to indicate that Col frameworks used by other organisations may serve as a starting point. Communicate input to DT tasked to develop a charter for CCWG
17.	<p>Outreach:</p> <p>The framework developed must compulsorily include methods for outreach, particularly for entities and persons that are unable to be part of the deliberations for various reasons which may be financial, geographical, or others. The inability to participate in the conversation on utilization of auction proceeds should not hinder the potential to receive aid from the proceeds or be represented in the dialogue.</p>	GI	See also previous comment. Communicate input to DT tasked to develop a charter for CCWG
18.	In particular we support the suggestion to study similar initiatives at the regional level, such as Nominet UK.	W3C	Communicate input to DT tasked to develop a charter for CCWG
19.	<p>We hope that the questions around Conflict of Interest will be resolved early and that a process to allocate the auction proceeds for the betterment of the Internet and the Web becomes operational swiftly and with a well-defined timeline.</p> <p>...</p> <p>Conflicts of interest can be prevented provided the proposed CCWG advises on general ideas for the allocation of funds, and provided that ICANN develops a process by which the body that makes specific decisions on funding allocation operates transparently based on the CCWG criteria. Once this is done there should be no further Col concern relative to CCWG participants.</p>	W3C	Communicate input to DT tasked to develop a charter for CCWG as well as CCWG.
20.	When considering the recommendations of a CCWG on new gTLD auction proceeds, the Board should follow the same principles that the Board adopted for consideration of the CCWG Enhancing ICANN Accountability recommendations (see:	RySG	Communicate input to DT tasked to

	https://www.icann.org/resources/board-material/resolutions-2014-10-16-en#2.d		develop a charter for CCWG
21.	After the framework and principles for spending the new gTLD auction proceeds have been developed, the CCWG should have a role in developing or overseeing their implementation. The precise implementation role to be played by the CCWG should be determined by the CCWG after the framework and principles have been agreed.	RySG	Communicate input to DT tasked to develop a charter for CCWG
22.	2. Conflicts of interest <i>Conflicts of interest should foreclose from participation in the decision-making process, those stakeholders who have previously made clear their desire that the auction proceeds be expended for their own self-seeking purposes, including, but not limited to, new gTLD registry operators, new gTLD service providers, and new gTLD lobbyists such as the DNA, the Domain Name Association, as well as others.</i>	JP	Communicate input to DT tasked to develop a charter for CCWG
23.	Overall, the IPC agrees with and supports ICANN's objectives as set forth in the Discussion Paper.	IPC	Communicate input to DT tasked to develop a charter for CCWG
24.	The Discussion Paper contemplates seeking input from "other communities such as country code TLD registries (see Discussion Paper, p. 7) on how these organizations have dealt with excess funds. The IPC supports this idea, and would also suggest seeking input from other organizations.	IPC	Communicate input to DT tasked to develop a charter for CCWG
25.	The Discussion Paper speaks to certain "take-aways" from the ICANN52 meeting that apparently were shared by meeting participants. Among these included "recognition that principles [emphasis added], a process and framework need to be developed before any spending can take place." (See Discussion Paper, p. 8.) The IPC generally supports efforts to further this premise. However, given the potentially broad scope of "principles" that may dictate the process going-forward, the IPC would suggest that these principles be defined more narrowly at this stage, with a particular aim of protecting stakeholder groups clearly impacted by the gTLD process itself. For example, there have been suggestions that auction proceeds be used for charitable donation, either charities suggested by individual gTLD applicant(s) in an amount corresponding to their auction payment or a more broadly chosen charitable organization. While the IPC believes these goals are laudable, any such designation would need to be consistent with the principle of reserving gTLD auction proceeds for issues directly related to ICANN's mission or the purpose of the DNS in general. Therefore, the IPC believes it is important to set forth the guiding principle(s) of this effort at the beginning in order to avoid discussion on options or solutions which ultimately may not be workable or even desirable. (See also Discussion Paper, p. 10, which mandates that proceeds are to be used in support of ICANN's mission and mandate.)	IPC	Communicate input to DT tasked to develop a charter for CCWG
26.	Finally, the IPC generally supports moving forward with a CCWG (see, e.g., Discussion Paper p. 8) to explore this issue. However, the IPC also supports the Board Chair's position that the process be lean. (See Discussion Paper, pp. 9-10.) The funds generated by the gTLD auction process currently stand at almost 60 million dollars (US) and may ultimately be more, given the existing gTLD applications still in contention. This money provides an unprecedented opportunity to fund projects and resources of incalculable	IPC	Updated Discussion Paper to reflect support. Communicate input to DT

	<p>value to the DNS and the relevant stakeholder communities. Therefore, it is imperative that the process be absolutely streamlined to avoid unnecessary expenditures. Therefore, the IPC encourages ICANN and the Board to make use of volunteer and other unpaid efforts to mine data and feedback from the public to the greatest extent possible. Should Board involvement be required (see Discussion Paper, p. 11), such involvement should be limited to instances where Board action is required to implement the proposals and ideas gathered from stakeholders and the community.</p>		<p>tasked to develop a charter for CCWG.</p>
27.	<p>We appreciate the efforts to encourage broad participation in this matter and our comments areas follows: The choice of a Cross-Community Working Group to facilitate the discussion on auction proceeds is preferred for its participatory operation and representative character as evidenced through the work of the ICG and the CCWG Accountability. However, it may be cautioned that without careful planning, structuring and phasing the use of a CCWG can be an expensive and long drawn process contrary to the desired lean mechanism. Recommendations made herein are bearing in mind</p>	CCG	<p>Updated Discussion Paper to reflect support Communicate input to DT tasked to develop a charter for CCWG.</p>
28.	<p>Framework Development: <i>A thorough and detailed framework is without doubt essential. We appreciate the focus on developing a set of principles that should underpin any framework that is utilised. Considering the focus of the framework would involve considerable financial planning and management of the new gTLD auction proceeds, it is important to have clear, transparent and accountable financial oversight measures. At this stage of discussions where the foundations of the framework is being developed it is imperative that the model adopted be grounded in strong principles of accountability.</i></p> <p>In this regard, there are many accountability guidelines that are useful for this purpose (see full comment for further details). The accountability discussions on CCWG-Accountability stream also hold relevance to this work stream.</p>	CCG	<p>Updated relevant section to highlight need to consider accountability aspects. Communicate input to DT tasked to develop a charter for CCWG as well as CCWG.</p>
29.	<p>ICANN Board Involvement: <i>In context of 53rd ICANN meeting in Buenos Aires and the subsequent discussion paper on new gTLDs Auction Proceeds, the issue of ICANN board involvement has attracted significant focus. Broadly, there are two questions raised about the nature of role and extent of involvement of the Board in relation to its participation in the development of Proposed Charter for a Cross-Community Working Group and its consideration, and subsequent acceptance, of the Charter as well as operation of CCWG.</i></p> <p><i>There are two independent but overlapping orbits of obligation that will determine the question of participation and consideration of CCWG, or any proposed task force, by ICANN board. The primary orbit of obligation is established by the legally enforceable fiduciary obligations under the applicable municipal and private international law. A secondary obligation maybe said to arise if the Board decides to design and subject itself to a selfregulatory set of rules in relation to development of proposed charter for a cross-community working group.</i></p> <p><i>Since the primary aim of the CCWG would be to channel funds from the auction proceeds to appropriate destinations, the framework developed may limit the role of the Board appropriately to the extent that that is jointly determined by the CCWG and the</i></p>	CCG	<p>Communicate input to DT tasked to develop a charter for CCWG.</p>

	<i>Board. This may include a pre-determined criteria against that shall be set out in the Charter. This criteria should be in accordance with the purposes set out in the new gTLD applicant guide book.</i>		
30.	Conflict of Interest: <i>In addition to ICANN’s Conflict of Interest Policy and other corporate governance documents adopted¹⁰, the framework developed must factor additional safeguards to prevent conflict of interest issues arising in the work of the CCWG. The nature of a CCWG needs to be kept in mind and accordingly a clear code of conduct to avoid conflict of interest must be developed. See full comment for details on frameworks used by other global organisations.</i>	CCG	Updated relevant section to indicate that Col frameworks used by other organisations may serve as a starting point. Communicate input to DT tasked to develop a charter for CCWG as well as CCWG.
31.	Participation: <i>As discussed in the broad preliminary comment supporting the CCWG Accountability and ICG model, we believe the similar model will enable participation from various communities and chartering organizations. This however must be supplemented with outreach efforts and linkages with other efforts. It may also be noted that the framework model developed and the subsequent proposals developed should keep in mind barriers to participation in the operation of such multistakeholder engagements.</i>	CCG	Communicate input to DT tasked to develop a charter for CCWG.
32.	Implementation: <i>This implementation of the work of the CCWG will largely depend on the nature of the proposals developed. It would therefore be too early to define the scope of the CCWG with regards to implementation. It must be stressed that the development of the framework and charter of the CCWG should be separate from the substantive discussion on the utilization of the auction proceeds.</i>	CCG	Communicate input to DT tasked to develop a charter for CCWG.
33.	<i>It is notable that the auctions were established as a mechanism of last resort to resolve string contention. Almost all string contentions – 90% in fact – were resolved through other means before reaching the auction conducted by Power Auctions LLC. While many suggestions were made since the launch of the new gTLD Program, it was not until March of this year that a discussion of a possible process for spending the auction proceeds even began. As ICANN asks for additional input before the drafting team is expected to develop a charter for a CCWG for consideration, we urge the community to retain steady dialogue with the ICANN Board as it seeks to authorize a plan for the appropriate use of funds.</i>	i2C	Communicate input to DT tasked to develop a charter for CCWG as well as CCWG.
34.	<i>The ICANN Board itself has noted that the process, if any, should be lean and cost-effective so as not to diminish funds. It is the view of the i2Coalition that a simple, lightweight process rather than a complex and expensive structure would best serve the current need.</i>	i2C	Communicate input to DT tasked to develop a charter for CCWG.
Topic 5 – Other			

35.	IPC commented extensively on this issue during the development of the new gTLD program, and consistently opposed the use of auctions to allocate new gTLDs, in part because of the entirely foreseeable result that huge sums of auction proceeds would accrue to ICANN's account. Now that this has occurred, the equally foreseeable push and pull over the disposition of these proceeds is likely to consume a great deal of the bandwidth and energy of ICANN participants that could otherwise be more directly devoted to fulfillment of ICANN's mission (or to other equally valid pursuits unrelated to ICANN).	IPC	Communicate input to DT tasked to develop a charter for CCWG.
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