

New gTLD Subsequent Procedures Policy Development Process Working Group

Private Auctions

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Subsequent Procedures
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Auctions: Private Auctions

- ⦿ Background: In the last round, the private auctions process was not articulated until after applications were submitted. However, in the next round, applicants will be aware of this process and the potential financial benefit of ‘losing’ in auction may become part of their application strategy
- ⦿ Pretense: A number of companies offered “private auction models” to applicants where the proceeds were split amongst the “losers” in the contention set (not ICANN).
- ⦿ Although the specific details are not public about how much each string was won in auction for, or about how much each “loser” made, some public companies have reported millions of US Dollars in income due to “lost” private auctions.
- ⦿ Some community members are concerned that if private auctions are allowed, there will be large numbers of speculators applying for strings hoping to be in a contention set to “lose” in the private auctions and receive a financial gain.

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- ◉ CC2 Comments: Losing private auctions was ‘extremely profitable’ and ‘applications in the future may attempt to replicate this’ behavior, ‘particularly now as the scale of interest is better-known’. Does not justify a prohibition of applications arriving at private settlements and are outside the scope for the Working Group although it could ‘lead to speculative applications and shouldn’t be allowed’.

ICANN Meeting in Panama, questions discussed:

Q: Do you believe this concern is legitimate? If these concerns are, then should something be done to address these concerns?

Yes, the concerns are legitimate and further discussion is needed to address the concerns

Q: Should this Working Group investigate this issue further?

Yes, the Working Group should investigate this issue further

Private Auctions Discussion – ICANN 62

2. Can anything be done? If so, what?

- ⊙ One participant felt that a solution already exists via the FTC.
- ⊙ Other members suggested to increase the application fee. However, this alone might not be sufficient in solving the problem due to the size of the financial windfall (millions). It is also detrimental to all other applicants.
- ⊙ Volume of applications could reflect intention from a tracking perspective as applicants with a few applications are less likely to be applying with the intent of going to private auction.
- ⊙ Members liked the idea of only allowing public auction with the resulting funds to be used to support gTLD related activities i.e. Universal Acceptance, Applicant Support, maintenance fees, fixed assets, etc.
- ⊙ Participants discussed the prevention of ‘secret’ deals and whether the community should care.

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- ◉ Some members felt that auction fees could impact an applicants business model and its stability.
- ◉ Applicants who lost in one auction, could use the additional ‘losing’ funds in future auctions which was felt to be unfair by some participants.
- ◉ Other members felt that private auctions are not in the interest of applicants and should be prohibited while others thought applicants should resolve it themselves
- ◉ Discussion on eliminating the financial benefit by preventing the funds from going to the ‘loser’s’ pocket and instead go to a charity. This would change the game as it would eliminate the financial incentive and could change the way applicants choose their TLD strings.
- ◉ Perhaps avenues other than financial should be considered.

Private Auctions

Questions for discussion:

1. Would increasing the application fee have an impact on reducing applications submitted for the potential gain in private auctions. Is the financial harm to all other applicants too large?
2. Are there other methods that should be considered in resolving the contention set i.e. non-financial aspects?
3. If an applicant has a portfolio of applications that strongly appears to be for the purpose of 'gaming', what policies should be implemented to prevent this?
4. Would we change our opinion if the strings had a similar theme i.e. flights, travel, food vs. travel, book, car?
5. If private auctions are prohibited, what are the implications to applicant, ICANN, others? Is there any practical way to limit or prevent private auctions?