

## **BC Comment on the Proposed Final Report of the new gTLD Auction Proceeds CCWG**

The BC is pleased to comment on the Proposed Final Report of the new gTLD Auction Proceeds CCWG and hereby commend the Working Group for the dedication put into the work leading to the production of the proposed Final Report.

The BC notes that the CCWG has already recognized that ByLaws must be amended to eliminate Request for Reconsideration and Independent Review Panel from the available remedies to challenge grants. These are amendments to Fundamental ByLaws and which should require Empowered Community approval. We believe sending the grant money to a third-party professional grant-making organization reflects a much better arm's length practice in terms of risk management.

We also note that ICANN has made it clear that

- (a) it does not abrogate oversight responsibility within its limited mission and
- (b) it will only be releasing portions of the Auction Proceeds in "tranches" over time.

With respect to risk management, we note in the report as recommended that the funds, which are to be dispersed using an Independent Expert Panel as evaluators, may not be used for matters currently covered in the ICANN budget.

**Question 1: Do you support the CCWG's recommendation in relation to the preferred mechanism(s)?**

BC response:

The BC recommends that the final report be amended to require an independent feasibility study to compare the costs of mechanisms A and B and to ensure that the empowered community retains oversight of the disbursement of the auction proceeds.

The BC is concerned that mechanism A will result in increased costs to ICANN. This concern stems from the requirement in mechanism A that ICANN org build internal resources to choose the grant recipients, in addition to administering the grant making process. We believe that CCWG recommendation #9 supports the proposition that the solution chosen should be cost effective. The BC also notes that on page 12 of the Final Report, ICANN org has provided input that mechanism A (and C) will require increased staffing. Further, the Board's input, as set out in paragraph 4.6 on page 16 of the Final Report emphasizes the need for an "efficient...mechanism" and "[p]reservation of resources, both of which support, at a minimum, the independent feasibility study proposed by the BC.

The BC's recommendation is based on the following financial and operational considerations in mechanism B:

- Mechanism B leverages the knowledge of experts in the grant making process, and does not require that expertise to be developed, or acquired, by ICANN org.
- Mechanism B provides ICANN with greater flexibility since it can be scaled up and scaled down quickly. This benefit is important since auction proceeds are limited. Because of this, there will not be a continuing need to have internal staff dedicated to the administration of the disbursement of auction proceeds. Current ICANN staff have the expertise to administer the organizational aspects of Mechanism B.

- Mechanism B provides greater organizational distance between ICANN this helps mitigate risk of an arm-in-arm transaction.

The BC is also concerned that the final recommendation does not contain sufficient detail to ensure that the empowered community retains the ability to oversee ICANNs proposed budget and the disbursement of the auction proceeds. In particular, the Empowered Community should retain its ability to enforce accountability mechanisms related to items in the ICANN budget that are proposed to be allocated to grant making activity. The Final Report should also clarify that any changes to the bylaws needed to implement the report are not intended to strip the Empowered Community of its budgetary authority.

**Question 3: Is there any further information you think the CCWG should consider, that it hasn't considered previously, in order to finalize its report for submission to the Chartering Organizations?**

BC response:

Whichever mechanism is chosen, ICANN Org should ensure that the mechanism is maintained so it can be re-activated if and when additional proceeds need to be allocated.

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This comment was drafted by Jimson Olufuye and David Snead.  
It was approved in accord with the BC charter.