Statement of the Non-Commercial Stakeholders Group on the Initial Report of the New gTLD Auction Proceeds Cross-Community Working Group[1]

The Non-Commercial Stakeholders Group (NCSG) welcomes the opportunity to comment on the initial report of the New gTLD Auction Proceeds Cross-Community Working Group published 8 October 2018 as it works towards finalizing the recommendations that will appear in its final report.

About Us

The NCSG represents the interests of non-commercial domain name registrants and end-users in the formulation of Domain Name System policy within the Generic Names Supporting Organisation. We are proud to have individual and organizational members in over 160 countries, and as a network of academics, Internet end-users, and civil society actors, we represent a broad cross-section of the global Internet community. Since our predecessor's inception in 1999 we have facilitated global academic and civil society engagement in support of ICANN's mission, stimulating an informed citizenry and building their understanding of relevant DNS policy issues.

NCSG Comments on Preliminary Recommendations[2]

Preliminary CCWG Recommendation #1

The NCSG supports Mechanism C, as an independent ICANN Foundation with its own Board of Directors would be more accountable than the other proposed Mechanisms.

Preliminary CCWG Recommendation #2

The NCSG broadly supports the identified objectives for the allocation of funds but would like to see specific examples of projects that the Cross-Community Working Group envisions could be funded in support of this mission. We note that the ICANN Board in its letter dated 31 January 2018 indicated that many of the projects that had at first been listed as examples are, in the opinion of the Board, "perhaps not a good use of funds." If following this and other inputs, the CCWG's thinking has evolved, we would appreciate seeing concrete examples of projects that could be supported with auction proceeds. The NCSG sees particular value in well-administered capacity building programs that are carefully aligned with the objectives and mission identified within this recommendation. Finally, we have carefully reviewed Annex C (Guidance for Proposal Review and Selection) and the NCSG would like to express

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[1] https://www.icann.org/public-comments/new-gtld-auction-proceeds-initial-2018-10-08-en
[2] For the sake of clarity, our comments relate to the recommendations listed in Section 1.4, rather than addressing the groupings of charter questions as laid out in Section 5.

our support for a diverse and inclusive grant review process. Proposals should be reviewed by multiple qualified individuals, representing different stakeholder groups and backgrounds, for example, making up a diverse, multistakeholder Grant Review Committee. Such a Committee could have access to appropriate and effective training to support its work and fill any gap in term of expertise. The NCSG agrees with the draft conclusions of the CCWG in Annex D (Example Projects).

Preliminary CCWG Recommendation #3

The NCSG supports all mentioned safeguards and encourages increased reporting requirements of grantees. We encourage using best practices and standardized reporting formats utilized by other highly regarded organizations and foundations. These reports should be made public and stored in a public web archive managed by ICANN org or a delegated independent agent, depending upon the structure of the Mechanism chosen to disperse the auction proceeds. This would increase the likelihood of learning from the successes and failures of grants, as well as provide an end in itself for researchers wishing to study the impact of at least $233.5 million in charitable spending related to ICANN's mission.

Preliminary CCWG Recommendation #4

The NCSG agrees that extensive measures should be taken to address real or perceived conflicts of interest. Moreover, the NCSG strongly endorses the notion that increased reporting and transparency of the mechanism will lead to a decreased likelihood of an illegitimate use of grant funds by the grantor and grantees.

Preliminary CCWG Recommendation #5

The NCSG notes that no decision has been reached by the Cross-Community Working Group on whether any funds should go to ICANN org or a constituent part. On this matter, the NCSG feels strongly that ICANN org should not receive any of the auction proceeds, as these funds were supposed to be sequestered for charitable purposes.

Preliminary CCWG Recommendation #6

The NCSG understands the rationale behind the preservation of capital not being an aim of the mechanism. In so far as the mechanism can distribute funds responsibly and in alignment with the aforementioned objectives, there should be no effort to preserve the mechanism. In principle, we do not disagree with the mechanism having a sunset date of no more than 10 years from the date of transfer of the last tranche. However, we see there is a potential benefit to having an organization set up in perpetuity fund to advance activities in support of ICANN's mission funded with interests or returns

Preliminary CCWG Recommendation #7

The NCSG appreciates this creation of an oversight and accountability mechanism but feels that great specificity is needed. For example, a public review should be conducted of the mechanism after each quarter of the funds have been allocated. This would require that the mechanism remain transparent and accountable at different stages of the process, with time to be corrected. Detailed financial and budgetary reports should be submitted by the mechanism with sufficient time for community review at regular intervals. This would allow the community to advise the Board on whether or not to transfer subsequent tranches.

Preliminary CCWG Recommendation #8

The NCSG endorses this recommendation. Of the three different options (p. 27) the NCSG appreciates the suggestion of focusing on projects consistent with ICANN's mission that support underserved populations and would like to suggest that priority should be placed on projects which are being *led by individuals from and residing within those areas*. Projects which involve partnerships, knowledge sharing, and resource transfers to underserved areas should be preferred over projects proposed by single actors intending to support 'others'. We would also see there being value in a limited number of funded scholarships and post-doctoral fellowships in furtherance of activities consistent with ICANN's mission. Those scholarships and fellowship should be limited to research described in annex D example #16.

Preliminary CCWG Recommendation #9

The NCSG would like to see stronger language from the Cross-Community Working Group in response to Charter Question #11 on the role of the ICANN community. While an internal and external review are important and should be included, we encourage strong participation from the community in the review. The statement "a role for the ICANN community in the review process should be considered" is too vague and leaves the decision to include the community open-ended (p. 29). Both internal and external reviews should be made available for public comment at regular intervals. As stated above, community review should have strong weight prior to the decision to transfer additional tranches of funding to the mechanism.

Preliminary CCWG Recommendation #10

The NCSG would like to see stronger procedures for monitoring and evaluation proposed by the Cross-Community Working Group. This will ensure that the governance structure is accountable and transparent. By providing public access[3] to proposals, mid-project reports, and final impact assessments of each project, universities and other researchers would be able to provide feedback on the effective use of grants. This information would be useful to ICANN and many other organizations working toward similar goals. Additionally, external monitoring and evaluation assessments should be conducted by a third party for independent, professional review.

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[3] The forthcoming ICANN document repository could have a section dedicated to grantee reports.

NCSG Comments on the Guidance for Implementation Phase

The NCSG generally agrees with the guidance offered for the Implementation Phase and we have addressed many of these issues in our comments above. However, we consider the guidance offered for the Implementation Phase in relation to charter question #8 (appropriate level of overhead) to be too vague. Specifically, the "principle of simplicity" is an abstract notion. Instead, the chosen mechanism's operating budget should be capped at 10% of the total amount of the auction proceeds (or 10% of the tranche allocated to the mechanism at any one time). This measure is meant to prevent exorbitant overhead costs is necessary, even though we fully understand that doing good does come at a cost.[4] The mechanism chosen to allocate auction proceeds will not face the traditional costs associated with non-profit marketing, fundraising or promotion. Therefore, a cap on overhead spending should be imposed.

Thank you for inviting our input.

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[4] The Better Business Bureau and Charity Navigator elaborate on the notion of the overhead myth; however, the auction proceeds mechanism is not a comparable institution and therefore should not be allowed to spend upwards of 20% on overhead like some of the world's largest charities.