BUENOS AIRES – SO-AC High Interest Topic Session
Monday, June 22, 2015 – 15:15 to 16:30
ICANN – Buenos Aires, Argentina

NANCY: Ladies and gentlemen, I would like to introduce the director of communications, North America, Brad White.

BRAD WHITE: Thank you, Nancy. This is sort of a special session for us. This session was born when we were last in Buenos Aires. It's very much an attempt to eliminate stove piping or minimize stove piping among the various advisory groups and supporting organizations and constituencies that make up ICANN. Sometimes many of us who are involved in those groups can only isolate our activities within those groups.

This session is very much intended to break down those sorts of barriers. For you to engage all of these folks at once and for them to engage each other in your presence. So that's the purpose of this session.

We're going to actually have two panels during this session, each panel running 35 minutes. The first panel is going to be made up of the SO and AC leaders. Second panel, community leaders from the constituencies, stakeholders, At-Large groups.

The issue that they have selected -- and they select the issue. There has been considerable back and forth. They want the issue to be an issue that's relevant to you, something that they feel the community as a whole is very, very interested in.

What they selected and the issue for these two panels today is the use of what we call the last-resort auction funds which come from new G contention sets.

So far there have been 13 contention sets which have been resolved by these auctions. That totals about $58.8 million. So we're talking a sizable bit of money here.

Just fewer than 30 contention sets remain to be -- or they are unresolved and still have to be resolved. So that figure could dramatically go up. Although it's worth noting that about 90% of these contentions are resolved and never get to auction.

I might also note that there is another session on Wednesday on this very subject. This is the beginning of the dialogue on this subject. That will be the continuation of the dialogue on this subject.

There's basically two questions when you're talking about these monies. As Dr. Crocker made clear this morning during the welcome session, these are segregated funds. That's misreported frequently in the news media. It's treated as a boom to ICANN's bottom line. It really isn't. The funds are segregated. And the community -- as Dr. Crocker has said repeatedly on the record, the community will help determine how those funds are being used.

It's basically two questions that are standing out right now. The obvious one: How will the monies be used? But perhaps the more important one: What is the process? What will we develop to determine how those monies are being used? It's important to note there's no deadline on this function. It can take as long as it needs to take. The money is not going to go away anywhere.

With that, let's get right to it. Also, I should note that we do -- for remote participants, we do have a Twitter account #asksoac. We will take questions from you guys.

I have some seed questions to get the ball rolling, but it is really going to be a better session if there is more of an exchange back and forth with you folks and with the folks joining us remotely.

With that, let me ask the first question of this panel. And, Jonathan, let me throw this up to you and your fellow panelists can join in: What process should be used for deciding how to use these proceeds?

JONATHAN ROBINSON: Thanks, Brad. And hello, everyone. I think you'll probably be aware that the GNSO has already proposed the use of a cross-community working group -- got a little bit of an echo here.

The GNSO has already proposed the use of a cross-community working group to deal with this. In seating that idea, we got some quite support from other SOs and ACs. And I know I've heard one of the issues there is that we need to think about how we engage outside necessarily the ICANN SO and ACs. I suppose in thinking about this, it

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is important to recognize that we're trusting this cross-community working group model to deal with the transition which is arguably the most significant single transaction or issue many of us have had to deal with within the model.

So if we trust it for that, it might seem we use that argument to say we should be able to trust it to deal -- to trust such a mechanism to deal with the auction proceeds. I highlight that it's open, it's inclusive, and generally so far an effective mechanism for dealing with issues of broad community interest.

BRAD WHITE: Do any of the other panelists, do they want to weigh in on this issue, on the idea of a CCWG?

THOMAS SCHNEIDER: Thank you. My name is Thomas. I'm from the GAC. First of all, I need to say we haven't had proper discussion on this in the GAC. So what I'm going to say is, like -- please take that into account.

What we've had in the GAC is the we have been informed about the reflection and how to deal with this. And there was a clear interest expressed from a number of -- a large number of GAC members that the GAC should be participating in the discussion on the mechanism and so on and so forth. So there's a high interest, but we didn't discuss any substance, neither about the process nor about eventual use, just to make that clear.

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And then I will be very brief. I also think that the process should be open, transparent, inclusive, and so on and so forth. And probably CCWG, something that people know that is open and exclusive, that may be a good thing to do. Thank you.

BRAD WHITE: It almost sounds like the process is so early and the consideration of it is so early that there is not enough to really be controversial yet. It's such an early formative stage, the proposal, correct? Or is that an overly simplistic statement?

JONATHAN ROBINSON: Was that directed to me, Brad? Just, can you clarify that?

BRAD WHITE: It sounds like, in other words, the whole concept of doing a cross-community working group is in such a formative state at this point that it's still being considered and debated? Or is the outline --

JONATHAN ROBINSON: I think it is slightly more firm than that in the sense that a proposal went out. There was a positive response from SOs and ACs, such that we then put out a call for participants to join a drafting team.

But having said that, we then slowed down a little bit to take advantage of this meeting, this session, and another session to be held on Wednesday where we'll hear some more qualified input from, for

example, some of the CCs who are themselves operating with surplus and other funds and using mechanisms to distribute those. So I think at this stage, we have paused for thought and broader input.

One idea that's been postulated is that we take this input that comes from this session and the Wednesday session and try to pull that together into a form of white paper or something like that. But in any event, there's no reason why all of that shouldn't then feed into a very well-informed cross-community working group.

So in terms of the mechanism, unless clearly we hear otherwise, I would think that still makes sense as a mechanism. But that doesn't stop us doing it slowly, deliberatively, and with all information and inputs at a very early stage.

BRAD WHITE: Let me ask all of you: How does the board fit into the overall picture on this? How do you see that occurring?

ALAN GREENBERG: I think at the first level, the board -- members of the board should be actively participating. It is certainly conceivable that we cannot come to closure and the board may have to make decisions. I would like to think that will not be the answer.

And we now with the CWG/CCWG have a little bit of experience with board members participating. I see no reason why they shouldn't be,

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and that may well just make it a lot easier to adopt whatever it is we recommend or not.

I mean, I don't see the CWG picking the particular projects. I think ultimately there's going to have to be a process to make specific decisions but certainly at the very least the guidelines should be something that the community can agree with.

I know we are talking about money, and it's controversial at times. But hopefully we can agree on where the money should and shouldn't go.

BRAD WHITE: Let me deal with that point for just a minute. All of you are well aware and equipped to deal with ICANN controversies. This is one involving almost 60 mil. Does that make it more difficult? I guess what I'm asking you: Is what's coming back at you on this issue, considering this amount of money and a determination of process on how to spend that amount of money? Is it different than other issues? Are you getting a lot of concern both from the community and from the board?

JONATHAN ROBINSON: I mean, certainly my sense is that there's strong interest. My sense is that that's balanced by general exhaustion and fatigue with perhaps what's been a more interesting topic lately.

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And so I think there's no doubt in my mind -- this is a sizable amount of money. It will attract interest. It's a topic that's been of interest for some time. And to some extent, as I said a moment ago, got eclipsed by the transition, which is why we need to make sure we don't rush into it with limited resources, community resources, in order to deal with it.

To your earlier point on the role of the board, Brad, I would -- I heard Steve this morning in the opening ceremony suggest that the board is very -- well, A, I thought I heard him make two points. One, that the money was appropriately segregated and, two, that the board would be very respectful of the will of the community.

I think the community, in turn, deserves to be respectful of perhaps not the will of the board but be very receptive to hearing from the board. And as Alan said, I would expect we should have board members feel free to involve themselves and insert themselves into an open cross-community working group. I'm sure they are very well qualified to provide that input in many cases.

And actually I'd even go so far as to go a step further and think their input and involvement is perhaps consistent with their board responsibilities to the corporation. So it feels to me like there's a self-consistent model where we could absorb board input and interest as board members participating in the process as well as ultimately reviewing the output of that process.

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BRAD WHITE: So that's an interesting observation. So, Jonathan, what you're saying is we actually welcome board participation early on. This is not a situation where we're going to develop some proposals and then go to the board?

JONATHAN ROBINSON: Let me just clarify that. I think in the case of a cross-community working group, would welcome input and involvement from anyone, including board members. And so in a sense, it's not the board collectively because the board collectively -- I mean, this is just my opinion and a little bit off-the-cuff. But I would think the board at a corporate level has its corporate responsibility.

                                But as individual board members, why shouldn't they participate as members of the community and give the relevant input? And we've had some frankly very, very important input, as I think again Alan referenced in the current two cross-community working groups, where board members in whatever capacity as experienced individuals have managed to provide very effective input and guidance to the work of those different groups.

ALAN GREENBERG: You said "board involvement." Now, should the board actually come to closure early on what the board thinks, we welcome hearing that. But I was envisioning this more as experienced community members, board members, giving their personal views and to the extent that they're generalizable, fine. But I wouldn't want to say they can only

say something the board has already decreed or decided. That's both counterproductive and sort of in your face.

BRAD WHITE: Lyman, I'm curious. As regards the SSAC, where are they coming in on this issue? What are the primary concerns of the SSAC?

LYMAN CHAPIN: Well, I think without being too hyperbolic about it, the obvious concern from SSAC would be to continue to pay attention to security and stability issues, and that would lead you, in a sort of simplistic way to say, "Well, you know, obviously we would recommend that the community focus on ways to spend the money that would enhance the stability and security of the DNS and the Internet." That's very superficial and you would expect us to say something like that. So if I - - if all I had was my SSAC hat on, that's probably where I would leave it.

But some of the comments about the way in which we hope to construct a process for dealing with this really has to take into account whether and to what extent there is a linkage between the way you plan to spend a pool of money and the way in which that pool came into existence in the first place.

So does it matter where the funds came from, as you try to determine what the best way is to apply them to things that lie within your mission.

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And I think it would be particularly important -- it may very well be that a cross-community working group is the right structure in which to debate some of those questions. It's certainly -- you know, and Jonathan has pointed this out. It's certainly one that seems to have initially found favor with a lot of the people that have looked at it, including -- including SSAC.

But the voices of people, including board members but also people who are conscious of the fact that ICANN has this money because of a particular activity that it went -- that it supervised, the auction process, and that may or may not play into how we want to disburse it.

There's a tendency for institutions to -- when they come into a sudden windfall, to look at it strictly from the standpoint of, you know, "How can we apply this to all the many things that we're already engaged in as an organization?" And I think that would be shortsighted to limit our scope to only thinking along those lines as if someone had simply bumped the budget up by another $68 million.

BRAD WHITE: Katrina, same question to you. What's coming at you from the CC community?

KATRINA SATAKI: Good afternoon. Katrina Sataki, ccNSO.

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Yes, we at the ccNSO feel that we did not contribute to raising these funds and therefore we think it's not appropriate for us to decide on how to spend this money.

However, ccNSO -- ccTLDs, they've been here since years and many of them have very interesting programs. They run projects and they help -- they help their local communities and I think Jonathan already mentioned that some ccTLDs individually agreed to participate and share their experience, because the best thing about the ccTLD community is that we are caring and sharing.

BRAD WHITE: Jonathan, let me pose the question to you. This was one of the questions, one of the seed questions. The drafting team, can you elaborate on its function, considerations, and so on, please?

JONATHAN ROBINSON: Brad, I could and I will. I'm happy to do so. But I wouldn't mind a response to a -- or a couple of thoughts in follow-on to these. As Katrina said, the ccTLD offered to provide expertise and input, to the extent that some members have already dealt with perhaps similar issues or mechanisms to manage funds, and we have three ccTLDs coming to the Wednesday session, so I think that that's very welcome and that's great in that engagement, and I don't -- it doesn't preclude, should CCs participate in -- later in the cross-community working group, should that emerge.

Also, I think to Lyman's point, I think there's a difference between the process to deal with this, and I would hope that the process would produce a structure to then deal with the funds.

So I would hope that the -- the intention of a process such as a CWG, that the end of that sausage machine, if you like, isn't, "And here's what we're going to do with the money." I would hope that what that process produces is an appropriate and well-constructed structure to then deal with the funds, subject to -- to --

So that would be the way I would envisage it work. So I just wanted to make that clear and I think that's -- it certainly wouldn't expect that a cross-community working group would come out at the end and say, "Right, we're going to carve it up this way and that's where the money is going to go." It would be much more to produce an enduring structure that was -- to the extent that the money remained, the structure was in place.

BRAD WHITE: Alan?

ALAN GREENBERG: A couple of points.

Responding to some of what both Lyman and Katrina said, I don't think that we're asking for opinions from the SSAC or the ccNSO. I think we're looking for informed, experienced people from the community to help us decide what ICANN should do with the money.

So I would not want to exclude anyone, and I hope they don't exclude themselves, because they didn't help create the money or because that's not part of their formal mission.

I really think it's important to make this an inclusive process.

In terms of the outcome of the CCWG, yes, I believe we should come out with a robust process, but I also believe that it would be reasonable for the CCWG to come up with some overall guidelines for how the money should be spent, because I think the overall community should be deciding that, not some small little group. And to be practical, the actual selection process cannot be done by a cross-community working group of 150 people. That's not practical. You have to delegate to a moderately small group. Perhaps representative, but moderately small. And therefore, I believe the guidelines should come out of the CCWG. Thank you.

THOMAS SCHNEIDER: Thank you.

Just to add maybe a couple of remarks.

As whenever money is involved, normally this is considered to be a sensitive issue, to start with, on a very banal level, and of course this is a nice thing but it also may raise expectations. And it may be good also to, at the very beginning, make it clear and then communicate it, what is actually the legal and other framework of what is possible in terms of according to this institution's bylaws and other frameworks, what is the responsibility of the board in this of who -- are there any

other responsibilities? What is the scope of possible activities? Maybe these funds -- is there any kind of earmarking to the funds or are we completely free -- who has legally the right to decide? Like these things I think should be laid out clearly as like a first step to then empower people so that they actually know, if there will be an open process, what is -- what are the limits to freedom in the sense of what to do with the money. And then there should be an open process, ideally, to gather ideas and then of course there will need to be a process on distributing the money, maybe, to different ideas.

Maybe there's not just one activity that will be supported with this money, but maybe there's a number of activities, and then you need to know how much money will you devote to activity A or B or C and D and there needs to be a process then also for making that distribution. Thank you very much.

BRAD WHITE: We do have a question from Twitter but before we go there, I just want one follow-up.

How can you assured that -- I mean, various groups have various ideas as to how the funds should be used in the end.

How can -- is there a way to guarantee that their desired end use for the funds, noble though it may be, will in some way impact the processes that you are developing?

JONATHAN ROBINSON: Well, Brad you asked earlier about a drafting team. Thomas just mentioned scoping. I mean, that's the purpose of a drafting team. A drafting team comes together and sets out the scope of the activity. Now, we've talked about a process. We've talked about possible structures. And you would expect that -- I would think that the drafting team, having set out the scope -- for example, part of that scope should be to determine the right level -- the right structures.

Alan talked about some of that scoping being perhaps the range of the use of funds.

For example, a range that the group might deal with might be for not-for-profit entity use only. I mean, Lyman obviously had a quite specific use of proceeds type of focus, security and stability, but, you know, these are the kinds of things that could come out.

So I think it's a scoping exercise, and then within that scope, there's the -- the group then has to take that mandate and do the work and produce the outcomes.

ALAN GREENBERG: Yeah. I certainly agree with that. I should note this discussion has been held sporadically for at least nine years that I'm aware of. My -- the first time I participated in any new gTLD discussion, the question of how do we use the auction proceeds, should they exist, came up.

There had always been a presumption in much of the community that ICANN would form a foundation, the money would go into the foundation, and the foundation obviously would have some mission of

the kind of guidelines or outcomes we're talking about here. So this -- this is not a new idea. We're -- there's been a lot of discussion, not formal, but a lot of discussion over the years as to how -- what -- roughly what kinds of things we should do. Thank you.

BRAD WHITE: So I think we have a Twitter question. Rob? My colleague, Rob Hoggarth, will voice that.

ROB HOGGARTH: Thank you, Brad.

I'm not quite sure that this question is germane to the broader scoping discussions that we're having right now, but it's our first and only question on Twitter so we figured we'd give it a shot.

Kevin Murphy from @domaininsight asks: Would distributing auction funds back to applicants remove an incentive to settle contention sets privately?

JONATHAN ROBINSON: All I can say is, I mean, that's an opinion, right? I mean, I can't offer an opinion on that. I mean, that's an interesting thought as to whether it would -- would alter the incentives or behavior of players in the auctions. But I will note that that was a question raised over the weekend. There was some weekend -- I think in the GNSO sessions over the weekend, someone did ask, "Well, before you go down the route of a CWG, perhaps you should decide whether the money's going

to remain and not be distributed back to those applicants from where it arose."

Again, I'm not going to offer an opinion on that but I will just register that that was a point made as a sort of precursor. If anyone else has got a view on whether or not it's legally or otherwise advisable to -- for that money to flow back from where it came, they're welcome to make the point.

I think my -- and the focus that I've had is assuming that it -- that it won't and therefore where -- where might it go.

But if -- clearly if the pot becomes unavailable, our discussion ends early.

ALAN GREENBERG: In answer to the question, I don't think it would make a difference. If the money goes back to the applicants in general, we're talking about something in the order of thousands, maybe tens of thousands, going back to applicants, whereas private auctions yield the unsuccessful auction -- unsuccessful bidders millions and millions.

So I'm not sure it would influence that decision whatsoever.

From a personal point of view, ICANN is here to satisfy the public interest and to support its overall mission. Giving the money back to the registries, I think, would be going away from that direction.

BRAD WHITE: And we have a question in the room.

Sir, can you just give us your name and who you represent, if anyone?

TONY HARRIS: Yes. Hello. My name is Tony Harris. I'm with the ISPCP constituency and I live here in Argentina, actually.

I'd like to echo what Lyman Chapin said. I'm very much in line with his opinion. And I would like to mention we had a workshop yesterday which lasted about six hours on universal acceptance. For those of you who are not too familiar with the work we're doing, we are looking at ways to address problems that have surfaced with resolvability of new gTLDs.

Apparently -- and we had a very -- we have a very qualified group, technically speaking, also, involved in this.

It's going to take a long time. It's going to take a lot of work, a lot of resources. And since this relates directly to new gTLDs, perhaps some portion of these funds might be set aside, let's say in a reserve fund, and be applied to helping this effort. I'm not asking for all of the money, but I think that would be applied to something which has very much to do with new gTLDs. Thank you very much.

LYMAN CHAPIN: Thank you, Tony. The question that Kevin Murphy asked and the point that you just made suggests -- those are what I would consider to be more specific examples of a general question of philosophy, I guess,

that I introduced earlier, which is whether or not we should recognize a linkage between the source of this money and the way it's disbursed.

So for instance, it's not necessarily the case that the only answer to that question is, "Well, it should be rebated back to the applicants." There are any number of other ways in which you might assert -- before you even decided, you know, what the specific purposes of spending the money might be, there are any number of ways in which you might assert that there should be a relationship between the fact that those monies were collected as a result of auctions and, for instance, the new gTLD program in general.

So just to throw out a hypothetical example, you could say, "Well, the uses of the funds should be limited to things that have some bearing on that program. For instance, helping to subsidize applications for new gTLDs from parts of the world in which, you know, the application fee is actually a whole lot more of a barrier than it seems to people in, for instance, the U.S."

I'm not suggesting that we should make that linkage. I'm suggesting that if the community feels strongly that there should be a relationship between where that money came from and where it goes, that would have a material effect on what the drafting team or any cross-community working group could put into its charter. It would be a piece of guidance that certainly I would, if I were involved in that process, find extremely useful and, in fact, necessary in order to be able to come to any meaningful conclusion.

JONATHAN ROBINSON: So I think Lyman makes a very thoughtful point there, and I guess my immediate thought on that would be I guess that's the range of potential disbursals and whether or not that's tied into the source. And that's clearly a critical point and it may be that that's even captured at a higher level, as Lyman suggested, which would be perhaps the principles on which that working group would work.

And the principles are something which you may capture at the drafting team stage in order to appropriately scope the work. As you say, whether it's developing world, security and stability, universal acceptance as the previous speaker spoke.

But just to recognize that I think that's thoughtful and helpful in thinking about how the -- how a group might work.

ALAN GREENBERG: Thank you. I'll point out that although we say the money is segregated, it is ICANN money right now, and as a not-for-profit, I believe charitable organization, there may well be constraints on what we can do with the money.

Certainly in a different world, surplus money of a membership organization in many jurisdictions cannot go back to the members. It must be used to do good things that don't directly benefit the members. There may be similar constraints here.

BRAD WHITE: I actually have a follow-up question in that regard, but Avri, go ahead.

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AVRI DORIA:　　　　　　　　　Avri Doria speak- -- ooh. Avri Doria speaking. Apologies. I came in late and I was worried that perhaps anything I wanted to say had already been said, but then listening to -- but then listening to Lyman, I realized that it probably hadn't.

One of the things that we really missed when we were doing the new gTLD program was actually the suggestion we had gotten from GAC and from others on basically how to give nearly free applications to people from a developing economies and perhaps that had -- should be -- had been mentioned.

So another thing that has been talked about in the meantime is, you know, perhaps because we failed at that so badly, in terms of outreaching to developing economies, in terms of outreaching to communities within those economies, that we really need to do some remediation.

And so in the spirit of using the money for the same sort of purpose, that would be the kind of thing that I would hope people would look at.

The idea that the money should go back to those that put it in the auctions, they already had an option. There is -- everybody knows that some of the people have made their money back from applications by participating in these -- in these private auctions.

So the private auction option was there for anyone who intentionally wanted to make sure that they could get their money back.

So I'm not sure that that really needs to be a consideration for this auction money. It might be a good, you know, idea for the money that's excess from the applications fees and all. I don't know. That's a different topic. But here --

So given those two things, I think looking at remediating the fact that we failed to reach developing economies and such with this program is really something that would be a clever solution or a clever path to take for this money. So I'd like to see that happen. Thanks.

[Applause]

BRAD WHITE: Sir?

UNKNOWN SPEAKER: No responses to Avri or -- Alan? Okay.

ALAN GREENBERG: I have a brief response. My gut reaction -- and it's not a well thought out one and certainly not discussed in at-large -- is to disagree with Avri.

In the first round, ICANN put up real money of its own, from whatever source, to subsidize developing -- developing economy applications. We weren't successful because we put ridiculous rules on it. I believe it's an ICANN responsibility in any future round. But I might rethink that.

THOMAS SCHNEIDER: As I said, we haven't had any long, substantive discussion about this. But it has been brought up when we quickly discussed this also amongst governments, would maybe think about looking at who has been able to benefit from the opportunities of these new gTLDs and who for whatever reasons has been less able to actually benefit from these opportunities.

In particular, the discussion went in the same direction like what has been said by Avri. So that may be strongly supported by governments once they will have the time to discuss this. Thank you.

BRAD WHITE: Let me just note before these gentlemen ask their questions. What have got about -- what do we have on the clock? About 3 1/2 minutes. So we're going to take these two questions and then segue over to the other session.

JAMES BLADEL: Hi. James Bladel speaking privately in my own capacity. And I deserve the credit, or more likely the blame, for raising the idea in the weekend sessions that we consider giving the money back to applicants. I don't throw that out there because I think that's the best use of the funds, but I put that out there to challenge some of the thinking because my concern -- I think this goes to your point, Lyman -- is recognizing the link between the source and the ultimate disposition of the funds.

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My concern is that ICANN in some respects could be called a family that's received an inheritance right now. And I think that there is a general vulnerability that whatever process is developed or whatever ultimate decision is made, that it's going to be a magnet for controversy.

There are so many worthy ideas, worthy projects deserving initiatives. And the concern is that whatever task or whatever group determines how to allocate these funds, it will be the wrong answer for a sizable segment of the community. So before we go down -- sorry, before we go back into that decision, let's make a conscious and deliberate decision to say that we're not giving the money back, any part of it, all or a portion, and then just focus only on how to go forward from there.

I have a concern really just how this -- I don't want to be a doomsayer, Jonathan. But I do worry that this amount of money could, in fact, tear the community apart. Thanks.

MICHELE NEYLON: Are you going to react? Okay. They're not going to react. Michele Neylon speaking in just my own personal capacity, I suppose, really.

I mean, James and a couple of other people have raised some interesting questions, some interesting issues with this. The idea of refunding money or maybe funding a particular issue, it is problematic. It is going to cause headaches. And I think the ccTLD community do have experience in handling that type of scenario.

I mean, I look to Nominet as an example, the Nominet Foundation. I know SIDN has something similar.

And trying to find some way of channeling those resources to something which kind of benefits, quote-unquote, like the greater good might be feasible. But, again, it's going to be highly problematic. It's going to be contentious. Like universal acceptance is a nice idea. But if I was VeriSign, I wouldn't be too happy about it. If I was Afilias looking at .INFO which I know still has problems with universal acceptance, I really wouldn't be too happy about it. This thing as James said about splitting the community and dividing the community is something we have to be very, very careful with. Thank you.

BRAD WHITE: Thank you, Michele.

JONATHAN ROBINSON: Brad, just a very quick point of information in response to Michele's point there. At the Wednesday workshop session, we'll have input from CIRA, SIDN, and Nominet on the way in which they've managed pools of money and distribution in their own communities.

BRAD WHITE: I was just talking to this gentleman. We are actually going to stay on subject. We're just going to switch people we're hearing from. We want to go to other members of the community, constituencies and so

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on. So we are going to do a very graceful on-stage graceful exit. Everything we do is graceful, Erika.

First of all, let's thank these folks. This was a good dialogue, a good beginning.

[Applause]

If you guys would go off that way, our new folks will come on this way. While they're taking their seats -- that was graceful.

While these folks are taking their seats, Rob Hoggarth got a couple of comments that he wanted to read off Twitter or off the remote feed.

ROB HOGGARTH: Thank you, Brad. I'm going to read a comment and then we'll kick off the next session with a question.

The comment comes from Amr el Sadr, the NCSG rep on the GNSO council. Amr's comment is: Although I was initially very much in favor fair of a cross-community working group, deliberating on how best to use the new gTLD auction proceeds, I'm beginning to think that a GNSO working group may be more appropriate.

Despite a GNSO working group being chartered by only one organization, GNSO working groups are more open to members than cross-community working groups. They become part of the consensus of the working group recommendations.

Cross-community working groups only allow a limited number of members from chartering organizations while membership in a GNSO working group are open to anyone.

And I'll follow that with a question from Tarik, which, Brad, I think will start as the opening question for our panelists. Tarik asks: While it is interesting to discuss how to use the auction proceeds, it's important to ensure that any use is bounded by both expected impact and measures for the use of the funds. So much discussion is on how to use the money rather than on what kind of use provides the best outcomes for the organization and the community.

What do the panelists think?

BRAD WHITE: Did you guys hear that or do you need a reask on that? Why don't you repeat the last part.

REMOTE INTERVENTION: Thank you all for your patience. While it's interesting to discuss how to use the auction proceeds, it's important to ensure that any use is bounded by both expected impact and measures for the use of the funds. So much of the discussion is on how to use the money rather than on what kind of use provides the best outcomes for the organization in the community. What do the panelists think?

BRAD WHITE: Please.

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ALBERTO SOTO: Alberto Soto. I am the chair of LAC RALO. I agree with that comment, but I also believe that whatever ICANN spends with -- of these proceeds, I will agree with that use of those proceeds provided there is clarity in the process to obtain those proceeds, in the process of managing such funds, and also how they are spent. I believe the concept has to be more comprehensive.

Let me give you an example. This afternoon or this morning -- I'm a bit at a loss here because I have been so to many events, so many sessions -- I was -- there was an organization that requested help for a Web page. So I would say that is a nice way. There is not too much money. There is some technical money that ICANN could use for. And out of the 240 ALS that we have in the world, some ALSs would be able to have access to these kind of assistance because they don't have the human or the financial resources. So they can have a Web page, and everybody can benefit from that.

So I think that that would imply for ICANN rather than money man-hours. And perhaps those proceeds could also be used to say, Well, we want the ATLAS event to be held every two or three years. And somebody said -- or suggested what those monies should not be used for. In LAC RALO, we said we don't want any more trips than the ones we have planned for. We want training. We want practice. We want leadership. We want to train leaders. We want to collaborate within ICANN. We want to collaborate and contribute to this ecosystem.

The ccNSO representative talked about an ecosystem. All of us should voice our views because it is that diversity of views that allows our authorities to make the right decisions so that later on we don't have to rush to correct things or to fix things for decisions that were not properly made.

Perhaps the lack of opinions, a voice that could lead to this kind of wrong decision. Thank you.

PHILIP CORWIN: Thank you. Philip Corwin. I'm here representing the business constituency, though these are my own views. We haven't really had a robust discussion of this within the BC.

I want to say three quick things here. I think we are getting way ahead of ourselves discussing various ideas for how to spend the money. I think the first step is to decide whether a CCWG is the right type of structure for deciding a process for considering ideas and setting up a structure for spending it.

Second, I don't think there are any simple answers here. There is a real potential, I think, for having kind of a family squabble over the inheritance, and we don't want that. But to think that even giving the money back to the applicants is simple, it's not that simple.

Does that mean that Donuts gets the biggest share of the money back because they put in the most number of applications? Or should there be some different formula for allocating it back to applicants? So nothing is that simple.

Third, I think whatever the ultimate decision is, if the money is going to be spent in some way on some broad categories of subjects, the process for deciding on an individual proposal has to be completely transparent and aboveboard. You don't -- I heard the idea, Let's give it to a small group to consider projects. Frankly, not to denigrate anyone, but there's always a potential for corruption when decisions are being made about giving -- when you are discussing which of two applicants is going to get the million dollars for the project. Someone can be swayed in some other way if they are one of the decision makers.

So we need to be very deliberative and very careful about this process and talk now about creating a process, not about making decisions on the ultimate outcome.

BRAD WHITE: Rudi.

RUDI VANSNICK: Maybe I'm going to kick it a bit too far. But I think looking into the community that we are failing to address today, at one side with the DNS itself but also in the Internet governance. Maybe we could take a part of the money aside for disabled people so that they are enable to participate in the DNS but also in the Internet governance discussions. Maybe the youngsters, students, maybe we can find a way to provide the funding so that we could have a kind of student ICANN session because they are the future. They are going to decide fairly soon what

the policy will be. We are just leaving the scene in a few years. We need the youngsters to allow them to understand what we are building for them so that they can use it to make their own world and not fail as we have failed in the past. So it could be a learning session. And I think that needs some money. Maybe we need to look into a kind of project concept where we could use students at one side and the disability people and groups so that they have the chance to participate.

We got that question two hours ago during our session where the question came up: What about the disabled people? They can't come. And remote participation is not the only solution. So I'm proposing that we take care of this group and try to get them involved in what we do.

BRAD WHITE: Elliot, you had a comment. Then let's take Jean-Jacques' question since he has been waiting patiently.

ELLIOT NOSS: And I would note that my son agrees with those previous comments. He would love access to that money.

I think there's three things I want to point out. The first is the "what." And I really think that we as a community are missing a part of the "what."

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I heard the $60 million referenced earlier. I think we should at this point also note that the .WEB auction, which has not yet taken place and will likely be ICANN, stands to be potentially as much as another $60 million.

In addition to that, there was, I believe, by my count -- my math could be wrong -- about $100 million in the application fees that came in set aside as a legal fund. As far as I know, there has been very little, to no litigation to date. Maybe some of that reserve could be kept back. Clearly it is far in excess of what was required at the time.

I have no problem with it being set aside at the time, but that's another big pot of money. Right there, 60 has become 220. So let's recognize that.

Second, I think that we deeply need to note this as a one-off process. I think there are great things that ICANN can do with excess reserves over time. There are lots of space for discussion. This is a singular process and problem because there will never again be a surplus of this nature.

The second round will be much smaller, probably both in fees and in number of applicants and certainly in excess. So we need note that we are solving a one-time problem, not a problem in perpetuity.

And, third, I think as a matter of governance, there's a very clear answer here. And I think it has to be the default to start with, which is that this is -- as with any corporation, even a public interest corporation, that this is an exceptional matter and need be dealt with

by board and not staff. Board has absolute responsibility for this because of its exceptional nature.

As a default, a committee formed by the board to resolve this disposition need be the party responsible. And that does not preclude in any way broad community involvement, a broad community working group around this problem. But that's where the ultimate responsibility and disposition need come from. Thank you.

BRAD WHITE: Thanks, Elliot.

Jean-Jacques, if you could hang on one half second. I believe Greg from the IPC wanted to make a comment.

Excuse me, Paul.

Speak separately.

GREG SHATAN: Since you said me first, I will go first. First, I want to say that I agree with Phil Corwin's remarks that we need to start this by talking about process way before we start talking about results. I do agree with the questioner, that we do need to think about where the money is going. That would be a criticism of the "give it back to the applicants."

I mean, in that case, we know where it's going, but we don't know where it is being spent and what the outcome will be. So I do think we need to be thinking about outcomes.

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I think we will have many, many good ideas from all around the community about where the money should go. The suggestion from within the intellectual property constituency is education for consumers, for end users, for registrants about a wide variety of topics and not just topics where the I.P. community has particular interests but general topics. Topics like universal acceptance, whatever it is.

Far too many people know far too little about what we do. And that takes a lot of time, money, and effort. And this would be a good way to spend it.

But the other thing to keep in mind is that this is not a monolithic amount of money. This is not a $58 million bill or eventually a $200 million bill. It's right now 58 billion pennies. These can be divided up into a variety of different ways. There's no one answer. As a matter of fact, I would say there shouldn't be one answer. We should look to put the money into a variety of different efforts with substantial enough sums so those efforts are truly meaningful.

But the idea that there should be one idea about where this should go, I think, is bad idea, although my -- I do suggest we also spend enough money to endow in perpetuity an ICANN gala. Thank you.

PAUL DIAZ: I guess in the interest of time, Brad, I'll make it very quick. But let's get to questions because I'm going to echo things I have heard both here now on this panel, Phil Corwin's positions in particular, and what I

thought I took away from the first panel which was the importance of process and a framework for this.

I mean, we are already jumping to what to do with the money but we have not figured out -- we've not fully discussed a framework, a process by which we are going to make those determinations. As Alan pointed in the first panel, we had talked about this informally. I am encouraged that the community is now deliberately beginning the discussion.

But I can't we're putting the cart in front of the horse. Even hearing from our CC colleagues who have experience with this, they don't speak till Wednesday. Yet, we're up here now. It feels like we're getting ahead of ourselves.

So the questions are all wonderful. Most all the points made are excellent points that should be debated within a CCWG. But I think we're kind of a little askew here about what we are focusing on first.

BRAD WHITE: Process needs to take precedence is what you're saying.

                         Jean-Jacques, I appreciate your patience.

JEAN-JACQUES SUBRENAT: Thank you, Brad. I'm Jean-Jacques Subrenat, former member of the board, currently a member of ICG, and of the NETmundial coordination council speaking here in a private capacity.

Two remarks and a suggestion. The remark, the first one is having listened to the previous panel and now to Elliot and Phil and some others, I'm struck by the fact that it is a logic of where the money comes from and who it should go to. Well, seen from the outside, what it looks like a bit, Elliot.

I agree with you all that there is a very important necessity to put process first.

But in addition to that, I would say that it's necessary to look ahead at what the Internet will be in five or ten years from now. That is the challenge. How do I look at it as a former diplomat, as someone who is looking at the global political situation? So many years after the formation of ICANN, there's still a few features which are still very striking. One is that the whole domain name industry is still concentrated very much in a very small number of countries and pockets.

Two, there's a problem of content. That's not your line of business, I know, but there is a paucity, there is a poverty of content in so many developing countries. And even in developing communities in more wealthy countries.

So what I'm saying is that -- and this is a suggestion -- perhaps the group you're thinking of forming should start by identifying the real challenges to the Internet and to ICANN in the coming years, rather than having a club approach, which is, "Oh, who are our current members?"

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That's not the problem. I think we should look forward and determine what are the real needs globally for the Internet in the coming years.

And my suggestion was actually that if and when ICANN decides to form a group to think about these issues, process, of course, will come first, but I would suggest also that the idea of refunding, as it were, those whose money was taken for the proceeds is not actually the best idea. Otherwise, there would be no Bill Gates, there would be no Gates Foundation, et cetera, et cetera, and we'd be stuck in a very ancient scheme of things.

So I think the first duty of such a group would be to identify areas where the improvements which you have called for, including for intellectual property awareness, et cetera, be done. That's fairly easy. And the rest should be identified in much more future terms to be thought of by the wide community with all the representatives from the ACs and the SOs. Thanks.

BRAD WHITE: Thanks, Jean-Jacques.

Let's go to you, and Wolf, you had a comment you wanted to make, is that correct? Sir?

GARTH BRUEN: Hi. Garth Bruen, NARALO chair. I think in considering how to go about looking at what to do with this money, the -- whatever committee comes to the front to do it, they should start with ICANN's mandate

and look at where in the mandate it's not being fulfilled, what portions of the mandate have been lacking.

And in echoing what Rudi said earlier, I'll give you an example. Last year, we asked in my region about the possibility of having additional transcription services at the meetings so that deaf people could access the meetings better, and we were flat out told immediately that there was no money that. Now, we've since made a lot of progress on that but that's just one example.

And in terms of dealing with disabled access, building in better access, especially for the blind within the DNS, actually improves TLD acceptance, improves TLD availability, and even possibly purchasing of domain names.

So as we think about -- and there could be many projects. As we think about these projects, we should also be sensitive to the registries and think about, you know, because that's the origin of the money, what can the organization do to enhance, you know, their return on investment later.

And I think that by doing this properly, it's not charity. It's actually a way of getting better TLD acceptance.

BRAD WHITE: Garth, thank you. Before we go there, let me -- Bill Drake just informed me that he had a comment he wanted to make. Bill?

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BILL DRAKE:	Civil society people are always at the end.

Bill Drake. I'm the chair of NCUC. I'm from Chicago so I love discussions of how to spend money and could probably make some suggestions along this line.

But I'll just start with a basic point. I think we should start by assessing other experiences. Auctions are not entirely new. The U.S. Federal Communications Commission just auctioned off spectrum and made, I think, like $45 billion, some of which it used to fund the development of a network for public safety, a nationwide public safety network. Or it's going to.

There are a lot of other experiences one could look at to try to get some pointers as to how these kinds of resources can be most effectively used.

So I wouldn't start from scratch. I would try to scope out prior experiences.

Secondly, I would suggest that returning the funds to applicants is problematic in a lot of ways, from my personal standpoint, one of which is that I think it would change the incentive structure of auctions in ways that probably would be deleterious from our collective standpoint.

So I -- I -- that doesn't make a lot of sense to me.

Now, within NCUC, we have a diversity of interests, as there probably is within a lot of the groups that are up here with their men in hats, so I won't pretend to speak for everybody else.

I'll tell you from my own standpoint, I would tend to agree with what Avri suggested about providing applicant support. I think that would be very consistent with ICANN's mission. I would also agree with what Garth said about providing greater resources for certain kinds of things here, like translation. I ran a meeting yesterday with no translation, which was highly problematic.

But I mean, I think there's much more that could be done in terms of supporting education, as Greg said.

These are all things, as long as they're within the remit of ICANN, I think that they would be appropriate uses of the resources.

I will say one thing, though, that -- and just to conclude, there are some uses one can imagine outside the remit of ICANN that would actually also be useful. Strengthening the larger ecosystem by, for example, supporting the IETF, supporting the IGF, things like that, these could also be useful activities.

So having a structure, having a foundation, having some kind of mechanism that would wisely husband these resources and make them available on an ongoing basis for certain uses I think would be good.

BRAD WHITE: Thanks, Bill. So we've got two comments at the end.

Aziz, why don't we take you and then Alberto, we'll go to you. And with these two questions -- we've got -- how much time do we have left here? We've got about seven minutes, so that ought to wrap us up.

Aziz?

Sorry, Wolf.

AZIZ HILALI: I will speak in French.

I come from Africa, from AFRALO. The registries there, the first one -- excuse me. I've heard about procedures and processes, and I'm going to point out the mistakes that were made in the past because I would not like to make the same mistakes in the future.

Particularly, I'm thinking about the GIS process, because it didn't work, and there was no result.

Secondly, I would like to go back to what Alberto has said about ALS. The ALSs are represented here and we ask them to fulfill lots of requirements, and I may tell you that these ALSs have no lots of resources. So part of this money should go to the ALSs so as to help them, because they are now the spokesperson for ICANN embassies. They raise awareness. They spread ICANN's word.

In my country, they have organized lots of seminars and events, so as to finally understand the role of the ICANN and all the issues related to the IANA transition and ICANN accountability procedures.

So part of the proceeds should go -- and I'm not saying how, but part of the money should go to the ALSes.

And I want to support what Avri has said regarding the not-for-profit domains that may come from developing countries. Thank you very much.

BRAD WHITE: -- the signals clearly, but Holly indicated that she had a comment she wanted to make. We haven't heard from her yet so I wanted to go to her next.

HOLLY RAICHE: Thank you. And I first want to thank James for saying that the industry doesn't want the money.

I secondly just want to say that the ALSes and ALAC have not made such denying statements.

I think that there are some absolutely terrific ideas around this table, probably far more ideas that are equally wonderful around this -- probably this room and in this conference. I think there are two things that should be said.

First of all, I would like to see the money -- and this is just me. I would like to see the money in more outreach. We've got a Middle East strategy. We have an African strategy. Hopefully we should have an Asia-Pacific strategy as a way to get ICANN out into the world.

And secondly, I think I probably share James' concern. I hope the process works, I hope that the community is listened to, but I think in the end, it will be a board decision and I hope they're able to handle World War III.

BRAD WHITE: Thanks, Holly. Wolf?

WOLF-ULRICH KNOBEN: Thanks, Brad. Wolf-Ulrich Knoben from the ISP constituency.

We have members in our group who have got much experience with auctions, especially those who are providing telecommunication networks and operating that in the field of the cellular service, so frequency auctions are well-known.

And there was one principle, the money which was -- they lost money and they won frequencies and so on, but the money which was spent was never given back to those applicants. Not directly.

So it was -- rather than -- as the auctions were done by -- from a more common point of view, from the government, it was -- then came back to the government and then maybe indirectly came back also to some of those applicants.

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So this brings me to a principle we're asked also to think about here when we're thinking about how this process should be turned out.

We should think about not just our own and legalistic requirements, rather than subsequent which may then pay back to the whole community here.

So to find real projects which pay back in this instance. There is not -- I don't have specific ones, but when we think about principles, we should think about to fix those principles in our -- in the charter of this group.

And coming to the group itself, I think the participation should be as wide as possible and we should find also a matter of consensus finding in that group which we had already done in other groups as it used to be. Thank you.

BRAD WHITE: Thank you, Wolf. Alberto, you had a quick comment?

ALBERTO SOTO: I'm Alberto Soto. Alberto Soto speaking. We agree -- we agree on the process. We need a process. But I'm going a step back. Who will be part of the process and who -- what will be the information in that process? Because it was mentioned that in some of the places in developing countries and some developed countries that they are not aware of what ICANN is.

So in the outreach we're doing in LACRALO -- for instance, in Bolivia, Haiti, the Dominican Republic, Cuba -- and as an example in Haiti, we have an ALS that cannot participate, they're much limited, because Adigo has no representation in that country.

And this is a poor ALS, has no resources, and cannot participate.

So the range of needs to be covered -- I'm not saying that these proceeds should be used to solve the problems of one country, but the outreach that we do, that we -- all ALSes do, is really important. There's one ALS with 7,000 members. There's another ALS with 150 members. But the voting procedure is open, free, and so it can gather more than 4,000 votes.

So everything we do, everything we do at LACRALO, everything that ICANN does -- people I know at the LACRALO is tired of what I'm saying but this is a wider scope so I think that ALSes are one of the most important tools that ICANN has for outreach.

So I think that we have to look forward and please remember that we are representing the interests of individual users of the Internet.

BRAD WHITE: -- who is our production chief over here is about ready to shoot me in the head with an arrow. And it's not a Digital Archery arrow. It's the kind with the poison head.

So we're running a little late. I just want to take the questions from these two gentlemen who have been quite patient. I also want to

reemphasize this is the beginning of the conversation, so if -- if everybody is not speaking or getting a chance to ask a question, you'll have a chance on Wednesday.

Also, keep the Twitter dialogue going. Because the people in the room leave, we don't want the conversation to end. We want it to just begin.

Douglas?

UNKNOWN SPEAKER: Thank you.

First, I wanted to start by echoing my support for an idea that has been taboo'd here for us to actually foster the dialogue around principles rather than actual use cases for the money, because I think it's far, far more important at this point in time.

And just to contribute further to that, I wanted to particularly suggest, which maybe has been done, the definition around the process of particular principles that are going to guide the use of this money, and I know some have already been suggested and I just wanted to add one.

That is the sustainability of the fund. Because if someone gives you 60 million and you run it down in two or five years then, you know, you need to have something wrong with you. So we need to be using the money in a way that assures sustainability. If that calls for some sort of investment or something, that is something that I would happy for us to explore within the remit of ICANN.

I -- my second contribution is also I've heard the use of the word "dispose" around this discussion and I'm slightly uncomfortable with the use of this word because it suggests -- seems to suggest, "Okay, we have some stash in our pockets, let's go run it down," and yet we should be trying to see how responsibly, how sustainably, we can be using the money. So I just wanted to point that out. Thank you.

BRAD WHITE: Thank you. Go ahead, Siva.

SIVA SUBRAMANIAN: I'm Siva Subramanian from Internet society, the Chennai chapter, and until ICANN decides what to do with the surplus proceeds, is it possible that we take a serious look at how the money is kept and make sure that it's at least conservatively invested? We have within our business stakeholder group quite a lot of seasoned investors, and if a small group, working group, is formed with such experts, and make sure that the money is -- money stays invested so as not to lose its value over a period of time, it would be wise. Thank you.

BRAD WHITE: Sir, I'm sorry, we're cutting out -- no.

                        [Laughter]

STEVE CROCKER: Steve Crocker, chairman of the board.

Let me just respond to the last. We've actually done exactly that. We've invested the money conservatively. It's all documented. We've used the same processes that we use to invest longer-term money, and I invite anybody who wants to look at it to -- all the documentation is on the Web and we've been -- we've taken that point very seriously up front already, and I completely agree with the question and it's hopefully completely under control.

BRAD WHITE: Thanks, Steve. Rafik. You got our final word here.

RAFIK DAMMAK: Thanks. I think I'm not going to be so long here. We need to get the process right and to include everyone in the community and also outside the community, and I don't think we are going -- I mean, going from scratch. There are several ideas and this discussion start even before and from NCSG, we address this issue several times with the ICANN board.

I heard a lot of people mentioning about supporting applicants from developing countries and I think that we should care about also -- it's not just about having registries from developing countries but also registrars and so on, so this is the kind of idea, input.

For example, the joint working group in applicant support made several recommendations about the auctions, and one of them was to have an ICANN foundation, so this is the kind of input we can use. That's why I'm stressing that we are not starting from scratch here.

We can use all this kind of input. We are listening now as well as we had before, and having the process right to set up whatever the format we end up, if cross-community working group, a working party or whatever, and just see what -- how -- what we can deliver there.

BRAD WHITE: Great. Thank you, Rafik.

Again, the conversation continues on Wednesday. Nora has just informed me that they're going to lay out some background on the money and set some parameters on the discussion and give a little bit of history, which will be very helpful as the conversation goes forward.

Again, it's the beginning. Get involved. We want to hear input on this.

Folks, thank you very much.

[Applause]

[END OF TRANSCRIPTION]