

Subject Recommendations for Distribution Policy for gTLD Auction Proceeds

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Text Body ATTENTION: The Directors of the ICANN BOARD

As applicants for ownership of the .salon gTLD the Aesthetics Practitioners Advisory Board (APAN) was delighted that our submission was successful and passed the evaluation process with top marks, having met with ICANN's requirements.

As a representative industry Association body for the salon professional industry we were very familiar with the current limitations salons were experiencing in securing their preferred name on the on-line space. Our belief was to assist and defend their business survival and progress. We therefore saw the new gTLD as a great opportunity to improve competition and business accessibility by opening up the Internet space.

Unfortunately, other than APAN there were three other finalists who had passed the application process.

We understood that the rules offered the following choices and options:

1. To agree between the winning parties to form one application
2. Go to a private auction
3. Go to the ICANN auction of last resort

While we were open to option one the other contenders were not prepared to negotiate this option.

There were four parties involved and THREE OF THE FOUR CONTENTION SET agreed to accept the Private Action as their preferred choice.

This was perceived as a fairer option as the losers would gain some revenue to potentially offset their costs.

However one party refused, and so we were all obligated to go to the ICANN auction of last resort. The winning auction bid was a \$5.175 million.

This exercise has been an expensive one and we wish to appeal to ICANN with the following observations:

APPLICATION AND EVALUATION RULES:

As successful applicants having passed the ICANN requirements it was no fault of ours that we could not compete with financial giants, who viewed ownership of this extension string simply as a money-making venture.

We therefore respectfully suggest that ICANN consider including as part of its evaluation process a criteria to further measure and determine:

1. The intent of the applicant
2. Their motive and purpose for applying for ownership
3. Their committed and influence in successfully driving the uptake of their TLD to the benefit of both consumers and businesses, while best meeting with ICANN objectives and purpose for their introduction.

This criteria, would allow ICANN to make the final determination on the winner, as it would be within ICANN's prerogative to do so. In that way the whole process would be better streamlined to be less cumbersome and without financial burdens and risks, while offering a fairer outcome.

More importantly, such a strategy would be perceived as fair and equitable by both consumers and the business community. The issue that applicants who had successfully passed the evaluation process were required to then go looking for millions of dollars to bid for ownership, even though they were successful in their application process, has been perceived by many potential investors and even some corporations as a questionable practice.

Money should not be the only deciding factor. This would have saved applicants who had passed the evaluation process a great deal of additional stress and costs if ICANN would review the applications to the point of a final determination of who the winner should be.

PRIVATE AUCTION

In the event of the auction of choice, we believe it would be more fair and helpful if the rules require that the decision is based on the *agreement of the majority* when more than two parties are concerned.

All fair business decisions are usually put to a vote with the outcome based on a majority vote. It is unfair that one contender be given the power to sabotage the possibility of a majority agreement, especially when their decision is to the financial detriment of the majority parties. In our case the option for the private auction was agreed upon by THREE OF THE FOUR PARTIES.

ICANN AUCTION OF LAST RESORT

On the basis that ICANN received such a large amount (\$5.175million) for

the bidding of this auction it would be fair and equitable for the losing parties to be considered in the distribution of the winning financial bid. We believe that ICANN should review this consideration for losing parties who have had to incur numerous costs, not just the application fee, but also toward the preparation of documents so that we could meet with ICANN's requirements. These include, but are not limited to registry fees, solicitor's fees, financial services, not to mention the enormous amount of time that is required of an applicant in preparing for their application.

As a result, we respectfully request ICANN as part of their funds distribution policy to consider the applicants who did not win at the auction, BUT WERE SUCCESSFUL IN PASSING THE EVALUATION PROCESS.

We have been encourage to submit this request to the ICANN Board by Grant Nakata from your gTLD Operations Team who has advised us that currently the Auction proceeds are being segregated from use until the Board determines a plan for the appropriate use of the funds through consultation with the community. He suggested we put forward our views to the Board for consideration.

We would appreciate if you could kind respond to our request.

Yours sincerely

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Tina Viney

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