



Comment on Proposed Changes to the NCUC Charter

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Business Constituency Submission

GNSO//CSG//BC

This document is the response of the ICANN Business Constituency (BC), from the perspective of business users and registrants, as defined in our Charter:

The mission of the Business Constituency is to ensure that ICANN policy positions are consistent with the development of an Internet that:

1. promotes end-user confidence because it is a safe place to conduct business
2. is competitive in the supply of registry and registrar and related services
3. is technically stable, secure and reliable.

The Business Constituency, having recently undertaken an update and public comment process for its own charter, has closely followed the similar efforts of other members of the Non-Contracted Parties House of the GNSO. It is through that lens that we offer the following comments on the proposed constitution of the Non-Commercial Users Constituency (NCUC).

We begin with the use of the term “**Constitution**” as the title of Section I. Section I appears to represent an introduction and description of the basic principles of the NCUC as opposed to a separate governing document. Accordingly, we suggest re-framing Section I. as “Mission and Principles.”

We also note one minor typographical error in Section I. Note the highlighted proposed text:

*B. The purpose of the Noncommercial Users Constituency is to represent individuals and organizations that use the domain name system (DNS) for noncommercial purposes. **The primary purpose of the Constituency is and to protect noncommercial online communications**, which includes expression for political, personal, research, educational, and recreational purposes*

We suggest replacing the phrase with: “The Primary purpose of the Constituency is to protect”....

Section II.B. states as follows:

B. The Membership shall consist of NCSG member organizations and individuals that meet the membership criteria, complete the processes set out in the NCSG Charter, and choose the NCUC. The NCUC Executive Committee reserves the right to review and approve NCSG members who decide to join the NCUC.

Given that in order to join the NCUC, first one must join the NCSG, it may be helpful to provide the link to the NCSG website in this document. It may also be helpful to explicitly reference that the NCSG has two Constituencies, **so as to allow prospective members to align themselves properly.**

With regard to section “**III. Membership,**” we note the following paragraph:

5. In the case of a membership-based organization, the organization should not only be noncommercial itself, but should have a primarily noncommercial focus, and the membership should also be primarily composed of noncommercial members (for example, while a chamber of commerce may be a noncommercial organization itself and may even have some noncommercial members, if it is primarily composed of

commercial organizations and has a commercial focus, it would be ineligible for membership).

We suggest that rather than singling out a particular business organization, it might be better to note that “while business and trade groups are often not for profit organizations [e.g. chambers of commerce, business alliances and trade associations], as their members are commercial organizations, such entities would not be eligible.”

In the section on financial disclosure statements, there is **an undefined reference to “chapters:”**

*J. In the event that a complaint is received or it becomes known to the Chair and the EC that there is an overt and deliberate effort by one or more organization(s) or **chapters** to control or dominate the Constituency; then, by majority vote of the EC, the identified organization(s) should be subject to a membership review. Remedies may include (a) cessation of the dominating/controlling behaviors, (b) suspension of membership, or (c) limiting, in a nondiscriminatory manner, the membership eligibility of chapters and sub-units and/or individuals affiliated with the affected organization(s).*

We recommend clarifying the concept of “chapters,” as this is a concept that is unique to the NCUC.

There are also certain important **resources available to the NCUC** that we recommend referencing in the charter. For instance, it may be helpful to note that the NCUC has an independent part-time Secretariat that assists on matters of voting and elections, and the ICANN Ombudsman is available to provide input on challenging decisions.

Finally, and again using the lens of our experience at the BC, with the extent of power being vested in the Executive Committee, we respectfully disagree that any members of the Executive Committee should be appointed. Our own experience in the BC has shown that **a democratic membership vote on all members of an executive committee gives it greater authority with all members, and externally, with the broader community.**

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This comment was drafted by Marilyn Cade, John Berard, and Tola Sogbesan, with edits by Andy Abrams.

It was approved in accord with the BC Charter.