

## Staff Analysis of Non-Commercial Users Constituency Charter Reconfirmation Report

*Submitted by Milton Mueller, Outgoing Chairman of NCUC, 24 January 2009*

Section	Clause or Language	Recommendations
	As is the case with all other constituencies, and the Board itself, Executive Committee discussions are not publicly available, as they involve strategic and budgetary exchanges and decisions.	It has been suggested via public comments that transparency and openness should also include publishing budget/financial data on each constituency's website.
	Last year, responding to the Board's concerns about the role of individuals in the GNSO and the breadth of representation in the NCUC, we instituted some important changes. We allowed individuals to join NCUC on a provisional basis.	Staff notes that the Board has yet to resolve the question of how individuals will be represented within the GNSO.
	Since the Paris meeting, when the membership drive was instituted, NCUC has increased its membership by 22 participants, a 40% increase. Seven (7) of the new memberships are organizational, and 15 are individuals.	Staff notes that there are approximately 50 members listed on the NCUC website ( <a href="http://ncuc.syr.edu/members.htm">http://ncuc.syr.edu/members.htm</a> ). Staff recommends that the NCUC indicate on its published lists whether a member is an organization or an individual.
	All communications to its listserv are transparent, as they are archived and posted on the web <a href="http://listserv.syr.edu/archives/ncuc-discuss.html">http://listserv.syr.edu/archives/ncuc-discuss.html</a>	Staff notes that the listserv discussion archive was easy to locate and up-to-date.

## Staff Analysis of the Non-Commercial Users Constituency Charter

*Version 2.1, Approved August 2003*

Section	Clause or Language	Recommendations
ALL	General	In its next amendment process, Staff suggests that the NCUC consider using the New Constituency Petition and Charter Template (hereinafter "Template") as a guide for both organization and content. It was developed by the Staff to be consistent with the improvements recommendations endorsed by the ICANN Board and is available at: <a href="http://gns0.icann.org/en/improvements/newco-process-en.htm">http://gns0.icann.org/en/improvements/newco-process-en.htm</a> .

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	ICANN Nominating Committee	Staff notes that there is no mention in the charter concerning the Constituency's Bylaw requirement (Article VII) to name a delegate to the Nominating Committee. This is mentioned for the sake of completeness; however, this responsibility is recommended to be placed with the Stakeholder Group in the planned June 2009 Bylaws amendments.
II(D)	The Policy Committee shall be chaired by the Constituency's two GNSO Names Council Representatives	Consider generalizing to "...shall be chaired by the Constituency's representatives to the GNSO Council" on the basis that the number of seats allocated by the Stakeholder Group to the NCUC may change over time. Are chair responsibilities shared equally between the representatives or is one elected to serve in that capacity for the Policy Committee?
III(F)	The Executive Committee shall create procedural rules for existing members to maintain their good standing	If, after six years, such "procedural rules" have been created, Staff recommends that they be incorporated into the next charter revision for the sake of transparency.
III(G)(2)	Initiate a policy development process within the constituency by proposing a set of terms of reference and obtaining expressions of support for it on the public discuss list from a minimum of eight (8) Members, including the proposer.	Consider making this requirement a percentage of the current membership as handled in III(G)(5) vs. a fixed quantity.
III(G)(5)	Propose charter amendments. A petition of five (5) percent of the then- current members shall be sufficient for putting a charter amendment on the ballot for consideration at the next regular election.	Staff does not see evidence that there has been any charter amendment approved since its creation in 2003. Staff recommends that a formal charter review be conducted at least once every three years, if not annually, to keep this important document up-to-date and relevant. In addition, Staff suggests adding a new Section, at the end of the charter, to track and document approved amendments. See Template, Section 11.0 for an illustration.
IV(B)(2)	Shall each serve no more than three consecutive terms on the EC	After meeting this term limit, can an individual be "off" for a year or more, then be reelected for another term? One option may be to add a clause that no officer is eligible to hold office for more than six out of ten consecutive years.

<b>Section</b>	<b>Clause or Language</b>	<b>Recommendations</b>
IV(C)(9)	Whenever EC votes are required by the charter but inaction by other members of the EC prevents tasks and duties required by the charter to be executed, the Chair is empowered to act to further the interests of the constituency. In the event of a tie vote on the EC, the Chair shall act as tiebreaker	Is the Chair normally a non-voting member of the EC? The charter is silent on that question; however, this clause implies that the Chair only votes when there is a tie. Further, Staff recommends that the term “inaction” be specifically defined.
IV(D)(1)	Recruiting new members from their regions	Staff recommends the inclusion of a separate Recruitment and Outreach section to emphasize the important role that growth and expansion play within the GNSO. See, for example, Template Section 4.3.
V(B)(5)	Shall serve no more than two consecutive terms	Term limits for GNSO Council members were approved by the ICANN Board (2 Feb 2009) and may be referenced (if desired) at: <a href="http://www.icann.org/en/minutes/prelim-report-03feb09.htm">http://www.icann.org/en/minutes/prelim-report-03feb09.htm</a> Section could be amended by adding text at the beginning “As required by the ICANN Bylaws.”
V(E)(1)	Members (or their Official Representatives) who are serving on GNSO Task Forces,	Consider updating to reflect the transition to “Working Groups” vs. “Task Forces.”
V(E)(2)	The Constituency Representative to PIR (.ORG).	Consider making a general statement that would include this representative (if still true) vs. a specific one.
VIII	Changes to this Charter	Staff notes that, although this section discusses the methodology for changing the charter, this version has not been updated in six years. Staff suggests that the NCUC revise this section to require a charter review and update at least every three years, if not annually, in order to ensure that it is up-to-date and current with changes in the GNSO and ICANN Bylaws. Staff also suggests adding a new Section, at the end of the charter, to track and document approved amendments. See Template, Section 11.0 for an illustration.
X(C)	Members that fail to pay dues and whose dues have not been waived by the EC will not be eligible to vote, nor have a Representative run for election to any office	Consider adding a written notice of non-payment followed a period of delinquency (e.g. 30 days), during which the breach could be remedied, before suspension of membership rights.
XI	Transparency	Although this section covers transparency, Staff recommends incorporating a comprehensive “Principles” section emphasizing the Constituency’s commitment to openness, transparency, and fairness and behavioral expectations consistent with ICANN Bylaws and Policies. Consult section 1.0 of the Template.

