RECOMMENDATIONS 24/25: NEW CONSTITUENCY APPLICATION PROCESS

STRATEGIC ALIGNMENT

Part One – Which ICANN Objective does this meet

Promote role clarity and establish mechanisms to increase trust within the ecosystem rooted in the public interest. Also, evolve policy development and governance processes, structures and meetings to be more accountable, inclusive, efficient, effective and responsive. See Strategic Plan main web page at: https://www.icann.org/resources/pages/strategic-engagement-2013-10-10-en.

Alignment with Strategic Goals

Goal	- Shared understanding by Board, staff and stakeholders of the allocation of responsibilities for design, development and implementation of policy and operational processes. - Shared understanding of the roles, responsibilities and accountability of the Board, staff and stakeholders. - Board, staff, and stakeholders use best practices and exercises appropriate behavioral norms.
Project/Recommendation	Recommendation 24: That the GNSO Council and Stakeholder Groups and Constituencies adhere to the published process for applications for new Constituencies. That the ICANN Board in assessing an application satisfy itself that all parties have followed the published process, subject to which the default outcome is that a new Constituency is admitted. That all applications for new Constituencies, including historic applications, be published on the ICANN website with full transparency of decision-making. Recommendation 25: That the GNSO Council commission the development of, and implement, guidelines to provide assistance for groups wishing to establish a new Constituency.

SCOPE DESCRIPTION

Scope Statement

Recommendation 24: GNSO action items: i) Determine whether new Constituency application processes are clearly posted and easily accessible, ii) determine what steps are taken to ensure compliance with those processes and whether those steps are adequate; iii) determine if all Constituency applications, including historic ones, are publicly posted along with full transparency of the decision-making process; iv) determine whether or not there is a presumption that a new Constituency should be admitted if all requirements are met and if such a presumption is appropriate; v) determine what process the Board uses to evaluate new Constituency applications and whether they are ensuring process compliance; vi) make recommendations for any modifications to the process, if any.

Recommendation 25: GNSO action items: i) Evaluate the effectiveness and accessibility of guidance for new Constituency applications; ii) recommend improvements to the guidance and the available assistance as appropriate.

Upon completion of the above steps, the GNSO Review Working Group to determine whether these recommendations have been implemented.

Out of Scope

The above scope is sufficiently clear.

Assumptions
That there currently exists some guidance on Constituency applications, but it may need to be augmented.

Deliverables
Possible additional guidelines on Constituency applications.

OPTION ANALYSIS

None were considered or were necessary to be considered.

SOLUTION

Staff research found the following:

Recommendation 24:

1. **Determine whether new Constituency application processes are clearly posted and easily accessible:**

    Staff found that the new Constituency processes are clearly posted and easily accessible at the following web pages: Current activities and procedures at: https://gnso.icann.org/en/about/form-new-constituency.htm and historical activities and procedures (before the procedures established in 2011) at: https://gnso.icann.org/en/group-activities/inactive/2012/improvements/newco-process-en.htm.
    The processes are detailed in the following documents:
    - New Constituency Recognition Process [PDF]
    - Application for Candidacy (AFC) Form [Word Template]
    - Request for Recognition (RFR) Form [Word Template]
    - Flowchart of the Process [PDF]

    However, staff notes that it might be helpful to have both the current and historic information available at one web page.
    In addition, at the request of the Working Group staff provides the following links to the procedures relating to membership in the Commercial Stakeholder Group (CSG) and the Non-Commercial Stakeholder Group (NCSG).
    1. CSG: https://gnso.icann.org/en/improvements/csg-charter-01nov10-en.pdf, Section 2 Membership of the CSG; and https://gnso.icann.org/en/about/stakeholders-constituencies/csg, which states: "Membership to the CSG is coordinated through membership with one of its Constituencies. Please see the Constituency page for more details."
    2. NCSG: https://gnso.icann.org/en/improvements/ncsg-charter-05may11-en.pdf, Section 2.0 Organization and Membership, http://www.ncuc.org/get-involved/join-ncuc/, and https://members.ncsg.is/membership_application.

2. **Determine 1) what steps are taken to ensure compliance with those processes and 2) whether those steps are adequate:**
    1) Staff found that the determination of "what steps are taken to ensure compliance with those processes" is determined via the evaluation of the ICANN Board of Directors, in its procedures "Process for Recognition of GNSO Constituencies" in Step 1 and Step 2 sections C, D, and F re: Stakeholder Group and Board Ratification required in the applicant and candidate evaluation processes. See: https://gnso.icann.org/en/improvements/new-constituency-recog-process-24jun11en.pdf, 24 June 2011.
    2) Staff found that the determination of whether "those steps are adequate" could be via evaluation of applications received thus far (post-2011 procedures): Public Internet Access/Cybercafé Ecosystem (PIA/CC) Constituency Application – denied by the Non-Commercial Stakeholder Group: See: NCSG Decision Regarding PIA-CC Application. Specifically, "After careful review of the application document, the supplement to this application as well as the cover letter submitted, the

NCSG has concluded that the application for candidacy does not meet the required criteria as per the process to recognize a new GNSO constituency, and recommends the rejection of this application and that the ICANN board of directors ratify this rejection."

3. **Determine if all Constituency applications, including historic ones, are publicly posted along with full transparency of the decision-making process:**

Staff notes that all Constituency applications, including historic ones, are publicly posted along with the full transparency of the decision-making process on the web pages at Current activities and procedures at: https://gnso.icann.org/en/about/form-new-constituency.htm and historical activities and procedures (before the procedures established in 2011) at: https://gnso.icann.org/en/group-activities/inactive/2012/improvements/newco-process-en.htm.

However, staff notes that it might be helpful to have both the current and historic information available at one web page.

4. **Determine whether or not there is 1) a presumption that a new Constituency should be admitted if all requirements are met and 2) if such a presumption is appropriate:**

1) Staff review of the ICANN Board "Process for Recognition of GNSO Constituencies" (https://gnso.icann.org/en/improvements/new-constituency-recog-process-24jun11en.pdf, 24 June 2011) suggests that there *is not* a presumption of admission if all requirements are met, and there is a two-step process that requires evaluation and ratification at the end of each step by both the Stakeholder Group and the Board and at each point it could be found that despite following the required processes an applicant/candidate might still not be ratified:

"There are two steps defined within this process. At the end of each of step, an evaluation will be conducted by the applicable Stakeholder Group (SG), according to its internal charter provisions, which will determine whether the application is approved to proceed to the next phase subject to Board ratification. Specific evaluation criteria are documented in the appendices so that proponents can learn, in advance, what tasks and activities are expected of them and how each one will be measured and assessed."

Step 1 is the Application Phase and step 2 is the Candidate Phase. Each phase requires careful evaluation by both the Stakeholder Group and the Board, as well as the option for reconsideration of the Board's decisions by the Stakeholder Group. Moreover, in step 2 ICANN staff must "analyze the proposed charter provisions for consistency with the ICANN Bylaws as well as documented procedures within the GNSO; and provide an impact assessment of the Request on ICANN resources". The staff review could result in requested revisions by the Candidate. The final charter must be sent out for a 30-day public comment period and comments from that forum must be summarized, which could result in changes to the charter.

Furthermore, detailed criteria must be followed, as described in the "Applicant Constituency Evaluation Criteria", Appendix 1, and the "Candidate Constituency Evaluation Criteria", Appendix 2.

Finally, staff notes also that in the case of the application by the Public Internet Access/Cybercafé Ecosystem (PIA/CC) Constituency Application, this application was denied by the Non-Commercial Stakeholder Group: NCSG Decision Regarding PIA-CC Application. Specifically, "After careful review of the application document, the supplement to this application as well as the cover letter submitted, the NCSG has concluded that the application for candidacy does not meet the required

criteria as per the process to recognize a new GNSO constituency, and recommends the rejection of this application and that the ICANN board of directors ratify this rejection."

5. **Determine 1) what process the Board uses to evaluate new Constituency applications and 2) whether they are ensuring process compliance:**
     1) Staff notes that the process the Board uses to evaluate Constituency applications is detailed in the "Process for Recognition of GNSO Constituencies" at: https://gnso.icann.org/en/improvements/new-constituency-recog-process-24jun11en.pdf, 24 June 2011, with the evaluation criteria clearly stated in Appendices 1 and 2. See #4 above concerning the evaluation steps to ensure compliance and also in Step 1 and Step 2 sections C, D, and F re: Board Ratification required at various stages.

     2) At completion of each step the evaluation by the Stakeholder Group and the Board determines whether the applicant or candidate is in compliance with the procedures.

Working Group Determination:

Recommendation 24: That the GNSO Council and Stakeholder Groups and Constituencies adhere to the published process for applications for new Constituencies. That the ICANN Board in assessing an application satisfy itself that all parties have followed the published process, subject to which the default outcome is that a new Constituency is admitted. That all applications for new Constituencies, including historic applications, be published on the ICANN website with full transparency of decision-making.

The Working Group determined:
1. *That the GNSO Council and Stakeholder Groups and Constituencies do adhere to the published process for applications for new Constituencies.*
2. *That the ICANN Board processes in assessing an application satisfy that all parties have followed the published process.*
3. *That the Working Group has discussed the following action from the GNSO Review Working Party: "determine whether or not there is a presumption that a new Constituency should be admitted if all requirements are met and if such a presumption is appropriate" and determined that there is not a presumption that a new Constituency should be admitted if all requirements are met since a Constituency applicant could fail the evaluation process by the Board or the Stakeholder Group if it did not meet the criteria. In particular, this aspect of Recommendation 24 "That the ICANN Board in assessing an application satisfy itself that all parties have followed the published process, subject to which the default outcome is that a new Constituency is admitted" may not be met given that the new Constituency must "prove" itself during the Candidate Phase through active participation in policy development activities. There is not just an assumption of recognition without demonstrated commitment.*
4. *That all applications for new Constituencies, including historic applications, are published on the ICANN website with full transparency of decision-making. However, staff notes that it might be helpful to have both the current and historic information available at one web page.*

Recommendation 25:
1. Evaluate the effectiveness and accessibility of guidance for new Constituency applications.
2. Recommend improvements to the guidance and the available assistance as appropriate.

Working Group Determination:

1. *That the current processes address Recommendation 24 and that they are effective and accessible.*
2. *That the current processes address Recommendation 25 and that improvements to the guidance are not necessary.*
3. *That the current and historic processes should be combined on one web page.*

The GNSO Review Working Group has determined that these recommendations have been implemented.

KEY DEPENDENCIES

1. Approval of any additional guidelines, if necessary, on Constituency applications.
2. Publication of additional guidelines, in necessary, on Constituency applications.

RISK IDENTIFICATION

Risk was identified as lack of approval.

KEY PERFORMANCE INDICATORS

It is not clear to staff whether a KPI applies in the implementation of these recommendations.

NECESSARY TO PROCEED

Next Phase Activities/Resources

None.

REVIEWERS

Name	Title	Date Sent
GNSO Review Working Group		

APPROVERS

Name	Title	Approval Status	Date
GNSO Review Working Group			
GNSO Council			

REVISION HISTORY

Date	Version	Description	Author
23 May 2017	V1	Original charter.	Julie Hedlund, Policy Director
02 June 2017	V2	Revisions based on discussion at the Working Group meeting on 25 May	Julie Hedlund, Policy Director
08 June 2017	V3	Revisions based on discussion at the Working Group meeting on 08 June.	Julie Hedlund, Policy Director
20 June 2017	V4	Revisions based on discussion at the Working Group Meeting on 20 June	Julie Hedlund, Policy Director

Attachments: Process for Recognition of New GNSO Constituencies 24 June 2011

Process for Recognition for new GNSO Constituencies

Effective Date: 24 June 2017

The two-step process described in this document, which replaces any and all previous versions, is   adopted by the Board in fulfillment of its responsibilities under Article X, Section 5.4 of the ICANN   Bylaws, allowing groups to petition the Board for recognition as a Constituency. The procedures in   Section III establish criteria by which each application will be evaluated throughout the course of the   process.

The processes, procedures, and criteria described in this document apply to Constituency applications   intended for the Non-Commercial Stakeholder Group (NCSG) and Commercial Stakeholder Group   (CSG) within the Non-Contracted Parties House (ref. ICANN Bylaws, Article X, Section 5.4).

Applications submitted prior to the effective date of this process will be evaluated under the   procedures existing at the time of submission.

III.   Procedures

There are two steps defined within this process. At the end of each of step, an evaluation will be   conducted by the applicable Stakeholder Group (SG), according to its internal charter provisions,   which will determine whether the application is approved to proceed to the next phase subject to Board   ratification. Specific evaluation criteria are documented in the appendices so that proponents can   learn, in advance, what tasks and activities are expected of them and how each one will be measured   and assessed.

STEP 1. Application Phase

A. Application for Candidacy (AFC) Submittal

Proponents of a new Constituency complete and submit to the appropriate Stakeholder Group (via   new-constituency@icann.org) a GNSO Constituency Application for Candidacy (AFC). If desired,   a cover letter may accompany the application form. Staff will post the application to the ICANN   website for a 30-day public comment period. At the end of the 30-day period, Staff will provide,   within 10 working days, a report to the SG summarizing the comments received.

This first formal evaluation phase for an Applicant Constituency places a premium on the need for a clear and relevant purpose to ICANN, focused representation, and a demonstration of broad and diverse support from prospective community members. The AFC and any accompanying documentation must fully address the criteria contained in Appendix 1 including:

1) Mission and Purpose

2) Operating Principles

3) Uniqueness and Representational Focus
    In order to properly accommodate a new Constituency in accordance with this criterion, proponents may recommend a restructure of the SG's membership and/or the representational elements of one or more existing (or proposed) Constituencies. In such cases, proponents are encouraged to discuss structural alternatives with the appropriate SG before finalizing their application. Any recommended design changes must be delineated clearly so that an evaluation of uniqueness can be made in light of the alternative structure. In its oversight role, the Board is amenable to considering various organizational designs and encourages frameworks that support multiple mutually exclusive Constituency groupings which, it believes, will (1) foster the development of a broader and more diverse GNSO community over time and (2) enable those Constituencies, as they form and grow, to envelop the full breadth of the global communities that the SGs are intended to represent.

4) Applicant Constituency Community Support and Diversity
    A GNSO Constituency may be comprised of individuals (e.g., registrants), organizations, or any combination thereof.

B. SG Evaluation

Within 90 days of the receipt of an AFC, the SG, according to its internal procedures, will transmit a written decision regarding the application to the ICANN Board in which it may either:

1) Accept the proposed Constituency for admission to the Candidate phase of the process;

2) Reject the application; or

3) If the SG is unable to reach a decision specified in (1) or (2), the SG shall notify the Board of such inability. Failure to act within the allowed timeframe will be considered by the Board as an inability of the SG to reach a decision.

During this phase, the SG and the application proponents are obligated to engage in collaborative consultation and dialogue with a goal of maximizing mutual collaboration and understanding. As part of this process, the SG will take into account the public comments regarding the application and will apply the criteria described in Appendix 1. In its written submission to the Board, the SG will provide

the rationale for its decision and include an explanation of the criteria elements that were or were not adequately addressed in the application. The written SG decision will be publicly posted.

C. Board Ratification

If a SG application decision is received at least 45 days in advance of a scheduled ICANN Board meeting, the Board shall strive to take one of the following actions at that meeting; otherwise, the decision will be reviewed at the Board's next consecutively scheduled meeting:

1) Ratify the decision of the SG by a simple majority vote;

    a) If the Board ratifies the decision of the SG to admit the applicant to the Candidate Phase, Constituency candidacy will be deemed to start on the date the ratification is taken by Resolution of the Board.

    b) If the Board ratifies the decision of the SG to reject the applicant's admission to the Candidate Phase, the application shall be deemed denied, without prejudice to the right   of the proponents to resubmit a new application.

2) Reject the decision of the SG by a supermajority (2/3) vote and provide a written statement of its concerns, including an explanation of any criteria elements that were not adequately   considered by the SG in its decision-making process; or

3) If the SG was unable to reach a decision, the Board shall make a determination to accept or reject the applicant's request for admission to the Candidate phase.

In its review prior to making its decision, the ICANN Board may ask questions and otherwise consult with the SG, the application proponents, and seek input from other interested parties   regarding the SG decision.

If it is not feasible for the Board to take action on the SG decision after having considered the matter at two meetings, the Board, through a committee designated for this purpose, shall report the   circumstances that prevented it from making a final action and its best estimate of the time required   to reach an action.

D. SG Reconsideration

Within 60 days after receiving a notice of rejection from the Board, the SG, according to its internal procedures, shall review and consider the comments of the ICANN Board and may either:

1) Accept the comments of the ICANN Board and modify the SG's previous decision accordingly;

2) Reject the comments of ICANN Board and resubmit the SG's original decision to

9

the ICANN Board; or

3) If the SG is unable to reach a decision specified in (1) or (2), the SG shall notify the Board of such inability. Failure to act within the allowed timeframe will be considered by the Board as   an inability of the SG to reach a decision.

During its review and consideration of the decision of the ICANN Board, the SG may engage in a   dialogue as appropriate with the ICANN Board, the application proponents, as well as consult with   the SG community. The written SG decision will be publicly posted.

E. Board Ratification

If a SG application decision is received at least 45 days in advance of a scheduled ICANN Board meeting, the Board shall strive to take one of the following actions at that meeting; otherwise, the   decision will be reviewed at the Board's next consecutively scheduled meeting:

1) Ratify the reconsidered decision of the SG by a simple majority vote:

   a) If the Board ratifies the decision of the SG to admit the applicant to Candidacy phase, the Candidacy phase will be deemed to start on the date the ratification is taken by Resolution of the Board.

   b) If the Board ratifies the decision of the SG to reject the applicant's admission to Candidacy phase, the application shall be deemed denied, without prejudice to the right of the applicant to resubmit a new application.

2) Reject the reconsidered decision of the SG by a supermajority (2/3) vote and make a determination to accept or reject the applicant's admission to the Candidacy phase; or

3) If the SG was unable to reach a reconsidered decision, the Board shall make a determination to   accept or reject the applicant's admission to the Candidacy phase.

STEP 2. Candidate Phase

During this period, the Candidate Constituency will be supplied with a toolkit of administrative   support services supplied by ICANN Staff to include such capabilities as telephone conference bridges   and meeting facilities at ICANN Public meetings.

A. Request for Recognition (RFR) Submittal

Within 6 months of a Board resolution approving an Applicant Constituency to enter the Candidate Phase, the proponents will submit to the SG (via new-constituency@icann.org) a Request for Recognition (RFR) as a Constituency in the SG. This request will include:

1) An Activity Report containing:

   a) A summary of the Candidate Constituency's participation in the SG's activities as described in Appendix 2 of this document, and

   b) The Candidate Constituency's membership growth to reach the goals described in Appendix 2 of this document.

2) A proposed charter for the Constituency developed in accordance with the criteria in Appendix 3.

3) An indication of the proposed resources that will be needed by the Constituency to participate in the SG (and the GNSO and ICANN) as a fully recognized Constituency.

If the Candidate Constituency needs more time to complete STEP 2, it may request a one-time automatic six-month extension (submitted to new-constituency@icann.org). The Candidate Constituency need not use the entire period. It may submit its materials at any time within that period. At the end of the extension period, if STEP 2 has not been completed, as outlined above, the Constituency's candidate status will be considered terminated, at which point any subsequent petition for new Constituency consideration must begin anew at STEP 1.

B. Staff Charter Analysis and Post for Public Comment

Upon receipt of the Request for Recognition, Staff will analyze the proposed charter provisions for consistency with the ICANN Bylaws as well as documented procedures within the GNSO; and provide an impact assessment of the Request on ICANN resources. Staff will complete its analysis and provide a report, within 10 working days, to both the SG and the Candidate Constituency for use in the deliberations regarding the Request for Recognition. If the Staff analysis indicates any areas that may require modification and the Candidate Constituency decides to complete such modification(s), the SG shall grant a period of no more than 30 days for the Candidate Constituency to revise its Request for Recognition.

Upon completion of the 30-day revision period or earlier determination by the SG and Candidate Constituency that no further revisions will be made to the Request for Recognition, Staff will post its analysis and the latest Request for Recognition for a 30-day public comment period. At the conclusion of the public comment period the Staff will produce, within 10 working days, a summary of the comments submitted.

C. SG Evaluation

Within 30 days of the receipt of the Staff summary of the public comments submitted on the Request for Recognition, the SG shall take action on the Request for Recognition, according to its internal procedures, and transmit a written decision to the ICANN Board. The SG may either:

1) Approve the Request for Recognition;

2) Reject the reject the Request for Recognition; or

3) If the SG is unable to reach a decision specified in (1) or (2), the SG shall notify the Board of such inability. Failure to act within the allowed timeframe will be considered by the Board as an inability of the SG to reach a decision.

During this phase, the SG and the application proponents are obligated to engage in collaborative consultation and dialogue with a goal of maximizing mutual collaboration and understanding. As part of this process, the SG will take into account the public comments regarding the Request for Recognition and will apply the criteria described in Appendix 2. In its written submission to the

Board, the SG will provide the rationale for its decision and include an explanation of any criteria elements that were not adequately addressed in the application. The written SG decision will be publicly posted.

D. Board Ratification

If a SG candidate decision is received at least 45 days in advance of a scheduled ICANN Board meeting, the Board shall strive to take one of the following actions at that meeting; otherwise, the decision will be reviewed at the Board's next consecutively scheduled meeting:

1) Ratify the decision of the SG by a simple majority vote;

   a) If the Board ratifies the decision of the SG to recognize the Constituency, the Constituency will be formally recognized as of the date the Board Resolution is approved.

   b) If the Board ratifies the decision of the SG to reject the recognition of the Constituency, the application shall be deemed denied without prejudice to the right of the applicant to resubmit a new application.

2) Reject the decision of the SG by a supermajority (2/3) vote and provide to the SG a written statement of its concerns, including an explanation of any criteria elements that were not adequately considered by the SG in its decision-making process; or

3) If the SG was unable to reach a decision, the Board shall make a determination to accept or reject the Candidate Constituency's Request for Recognition.

In its review prior to making a decision, the ICANN Board may ask questions and otherwise consult with the SG, the Candidate Constituency proponents, as well as seek input of other interested parties regarding the SG decision.

If it is not feasible for the Board to take action on the SG decision after having considered the matter at two meetings, the Board, through a committee designated for this purpose, shall report the   circumstances that prevented it from making a final action and its best estimate of the time required   to reach an action.

E. SG Reconsideration

Within 60 days after receiving a notice of rejection from the Board, the SG shall review and consider the comments of the ICANN Board and, according to its internal procedures, may either:

1) Accept the comments of the ICANN Board and modify its previous decision accordingly;

2) Reject the comments of the ICANN Board and resubmit its original decision to the ICANN Board; or

3) If the SG is unable to reach a decision specified in (1) or (2), the SG shall notify the Board of such inability. Failure to act within the allowed timeframe will be considered by the Board as   an inability of the SG to reach a decision.

During its review and consideration of the decision of the ICANN Board, the SG may engage in a dialogue with the ICANN Board, the Candidate Constituency, as well as consult with the SG   community. Any further decision of the SG shall be in writing, and will be publicly posted, and   shall be forwarded to the ICANN Board.

F. Board Ratification

If a SG candidate decision is received at least 45 days in advance of a scheduled ICANN Board meeting, the Board shall strive to take one of the following actions at that meeting; otherwise the   decision will be reviewed at the Board's next consecutively scheduled meeting:

1) Ratify the reconsidered decision of the SG by a simple majority vote;

   a) If the Board ratifies the reconsidered decision of the SG to recognize the Constituency, the   Constituency will be formally recognized as of the date the Board Resolution is approved.

   b) If the Board ratifies the reconsidered decision of the SG to reject the recognition of the   Constituency, the application shall be deemed denied without prejudice to the right of the   applicant to resubmit a new application.

2) Reject the reconsidered decision of the SG by a supermajority (2/3) vote and make a determination to accept or reject the applicant's Request for Recognition; or

3) If the SG was unable to reach a reconsidered decision, the Board shall make a

13

determination to accept or reject the applicant's Request for Recognition.

Recognized Constituency

Upon becoming formally recognized, the Constituency will enjoy full participation rights and obligations as described in the applicable Stakeholder Group Charter. The Constituency, like all other   GNSO Constituencies will be subject to periodic review. At a minimum this will be concurrent with   the review of the GNSO. The Board will describe the criteria for the review.

Applicant Constituency Evaluation Criteria: Appendix 1

The following minimum criteria are intended to apply a rigorous level of inquiry to ensure the legitimacy and suitability of the proposed Constituency within ICANN and the GNSO.

1) <u>Mission and Purpose</u>: The Applicant Constituency's stated mission and purpose must be relevant to and consistent with:

   ☐ (a) The mission and goals of ICANN and the GNSO.

   ☐ (b) The Charter of the Stakeholder Group to which the proponents are applying.

2) <u>Operational Principles</u>:

   ☐ The proposed Constituency must state that it will operate in accordance with ICANN's Standards of Behavior and the principles of openness, fairness, and transparency.

3) <u>Uniqueness and Representational Focus</u>:

   ☐ (a) The proposed Constituency must state how it is unique and non-duplicative of other Constituencies within the Stakeholder Group to which the proponents are applying.

   ☐ (b) The membership representation of the proposed Constituency must be limited to a defined subset of the Stakeholder Group comprising one or more discrete and logically related segments according to: (a) a recognized classification system such as, but not limited to, North American Industry Classification System (NAICS), International Standard Industrial Classification (ISIC), or National Taxonomy of Exempt Entities-Core Codes (NTEE-CC); or (b) an alternate construct proposed by the Applicant (see Step 1-A).

4) <u>Applicant Constituency Community Support and Diversity</u>
   For Constituencies whose membership is more than 50% comprised of organizations, criterion (a) will apply. For Constituencies whose membership is more than 50% comprised of individuals, criterion (b) will apply.

   ☐ (a) Proponents must provide authorized letters of support from at least sixteen (16) organizational entities, which express an intention to become members and support the mission of the Constituency if it is approved. Two of those entities must be located in each of at least four ICANN Geographic Regions or at least one entity from all five ICANN Geographic Regions. To satisfy this criterion, the entities must be unrelated to each other. Individuals who may be eligible for Constituency membership, but are not part of an organization, are not counted in assessing this support and diversity criterion.

   ☐ (b) Proponents must provide authorized letters of support from at least thirty-

15

five (35)   separate individuals who express an intention to become members and support the   mission of the Constituency if it is approved. Seven of these individuals must be located in each of at least four ICANN Geographic Regions or at least four individuals from each of five Geographic Regions.

Candidate Constituency Evaluation Criteria: Appendix 2

To qualify to become a Recognized Constituency, at a minimum, the Candidate Constituency must:

☐ 1) Have prepared and submitted a formal charter with specific governance mechanisms and provisions that are consistent with the checklist set forth in Appendix 3.

☐ 2) Have participated actively in at least two GNSO Working Groups (including committees, work teams, drafting teams, or other Council-approved structures) with its representatives attending at least 50% of the scheduled meetings.

☐ 3) Have prepared and submitted at least two Constituency policy position statements or other policy analyses to its Stakeholder Group and/or other recognized GNSO forum (e.g. GNSO Council, ICANN Public Comment Forum).

☐ 4) Have demonstrated active engagement in the applicable Stakeholder Group by becoming a participant in at least two committees, if appropriate and applicable, with its representatives attending at least 50% of the scheduled meetings.

☐ 5) For Constituencies whose membership is more than 50% comprised of organizations, criterion (a) will apply; for Constituencies whose membership is more than 50% comprised of individuals, criterion (b) will apply.

   a) Show a membership count of at least thirty-two (32) organizational entities with four entities located in each of at least four ICANN Geographic Regions or at least two entities from all five ICANN Geographic Regions. To satisfy this criterion, the entities must be unrelated to each other.

   b) Show a membership count of seventy (70) individual members with fourteen individuals located in each of at least four ICANN Geographic Regions or at least seven individuals from each of five ICANN Geographic Regions.

While creativity in content organization and format are supported by the Structural Improvements Committee (SIC), charters should incorporate the following elements:

I.   Mission and Principles

☐	<u>Charter Scope</u>. Reference to ICANN Bylaws.
☐	<u>Mission</u>. Statement of purpose consistent with ICANN Bylaws and Board-approved GNSO Improvement/Restructuring recommendations.

☐	Principles for Leaders and Members. Includes:
	  a) Important overarching principles, consistent with ICANN Bylaws and Board direction, emphasizing fairness, openness, and transparency in all policies, practices, and operations;
	  b) Service standards for leadership positions including impartiality, accountability, and conflicts of interest declarations; and
	  c) Behavioral expectations of all leaders, members, and participants including adhering to ICANN Expected Standards of Behavior; supporting the bottom-up consensus model; treating others with dignity, respect, courtesy, and civility; listening attentively to understand others; acting with honesty, sincerity, and integrity; and maintaining community good standing.

☐	Structure: Identify and define each of the permanent structural components needed to govern, manage, and administer the SG/C including leadership positions, committees/group(s), GNSO Council Representatives, and Members.
☐	Purpose and Function: For each permanent committee (or council) envisioned (e.g. executive, administrative, policy development, membership, communications), what is the purpose of that entity and what are its principal functions?
☐	Officers, Eligibility, and Terms of Office: What officers and positions comprise the committee's (or council's) leadership structure; how are they appointed or elected; what are the relevant eligibility criteria; what term limits and/or staggered terms apply; and how are resignations, suspensions, removals, and vacancies handled within the SG/C?
☐	Responsibilities: Describe the roles, duties, and responsibilities of each leadership position including delegated powers and authorities.

☐	Member Qualification and Eligibility: Address how the SG/C defines its membership including factors such as representation, diversity, member expertise/knowledge, markets or interest areas served, et al.; what entities are eligible and, if applicable, ineligible to join this SG/C; and what membership states are recognized including active, inactive, registered, non-registered, et al.
☐	Member Rights and Responsibilities: Describe the rights, privileges, and responsibilities of membership including voting, participation, involvement, and recruitment. How are membership status and eligibility monitored/reviewed and what procedures govern disciplinary action including warnings, suspensions, and terminations. Document any appeals processes that apply.
☐	Appointed Representatives: Describe the SG/C's requirements and standards for appointed representatives including services to be performed, credentials/qualifications, knowledge/expertise, time/interest requirements, and participation/involvement expectations.

18

☐	<u>Recruitment and Outreach</u>: Describe the SG/C's commitment to and policies, practices, and values with respect to expansion and growth. What steps does a prospective Member follow to apply for membership?

IV. GNSO Council Representatives (CR)

Pursuant to Article X, Section 3 of the ICANN Bylaws, each GNSO Stakeholder Group is accorded the authority to establish its own mechanisms for selecting GNSO Council representatives from its community. To the extent the applicable SG Charter establishes such a   process, each underlying Constituency Charter should acknowledge and follow that process. To the extent that the SG Charter does not establish a process, or otherwise assigns that task to its member Constituencies, the Constituency charter should include processes consistent with the   following two provisions:

☐	<u>Elections</u>. Specify how CR candidates are nominated, what eligibility criteria apply, how geographic diversity is taken into account, and what election system(s) will be used including voting methodologies. If weighted voting is utilized, specify the factors involved and how the computations are determined and applied consistently. Timeframes should be specified for each step in the process and how election results will be determined, communicated, verified, and publicized.
☐	<u>CR Terms</u>. In order to promote continuity of CRs elected to the GNSO Council from the SG, describe how CRs shall serve staggered terms such that *i* CRs will be elected in odd years and *j* CRs will be elected in even years. Charters should note that GNSO Council Representatives are subject to terms limits as specified in Article X, Section 3 of the Bylaws and the GNSO Operating Procedures, Section 2.1

☐	<u>Meetings/Conferences</u>: What types of meetings will the organization hold including frequency/duration and for what general or specific purposes? How will notifications and agendas be handled and what protocols will be employed to guide the sessions (e.g. Robert's Rules of Order)? What attendance options are supported (e.g. remote teleconference)? Are observers permitted? How will sessions be recorded (e.g. audio, minutes), published, and archived? Will translation/interpretation services be offered or available?
☐	<u>Publication Policies</u>. Describe the organization's responsibility for and supervision of communications media including appropriate and inappropriate content, privacy rules, and disciplinary action for violation including removal of content, suspension/termination of privileges, and any appeal processes that may apply.
☐	<u>Records Retention</u>. What is the organization's commitment to maintain all records, databases, and documents, including archives, of the Constituency for at least a four year period as specified by ICANN?

VI. Elections, Voting, and Decisions

☐	<u>Eligibility for Elected Office</u>: Include any general eligibility criteria pertaining to elected positions not elsewhere covered under a particular title.
☐	<u>Election Procedures</u>: Describe the organization's processes, rules, and associated timelines for handling announcements, nominations, circulations, candidates formal acceptance, and submission of resumes/bios/qualifications; balloting sequence; acceptable or allowable voting mechanisms; quorum rules; proxies; outcome determinations including how ties are resolved; publication/announcement; and confidentiality provisions.
☐	<u>Rights, Privileges, and Limitations</u>: Which members are permitted to vote and under what circumstances, if any, might a member's voting privileges be revoked or suspended (e.g. fee delinquency, conflict of interest, suspension)?

VII. Finances

☐	<u>Revenues</u>. Itemize the organization's revenue sources including, as applicable, membership dues, fees, subscriptions, grants, gifts, et al. Specify applicable provisions for payment, non-payment, settlements, refunds, and waivers for extenuating circumstances including, if applicable, special rates for small companies or organizations from developing countries.
☐	<u>Expenses</u>. How are funds disbursed and what procedures are in place for authorization and review of expenditures?
☐	<u>Policies/Practices</u>: What is the organization's accounting period (e.g. fiscal, calendar); budgeting process; annual financial reporting/publication policy including transparency; and process for independent review? Does the organization follow generally accepted accounting principles?

VIII. Amendments, Revisions, and Document Control

☐	<u>Amendments</u>. Explain how charter amendments or revisions are made and approved including document control (see sample below).

Version	Date	Name	Description
1.0	1 Sep 2010	John Individual	First draft for team review and discussion
1.1	15 Sep 2010	Mary Person	Changes made to Sections to …

20

21