TOP TEN MYTHS ABOUT CIVIL SOCIETY PARTICIPATION IN ICANN

From The Non-Commercial Users Constituency (NCUC)

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Myth 1

"Civil Society won't participate in ICANN under NCUC's charter proposal."

False. ICANN staffers and others claim that civil society is discouraged from engaging at ICANN because NCUC's charter proposal does not guarantee GNSO Council seats to constituencies. The facts could not be further from the truth. NCUC's membership includes 143 noncommercial organizations and individuals. Since 2008 NCUC's membership has increased by more 215% – largely in direct response to civil society's support for the NCUC charter. Not a single noncommercial organization commented in the public comment forum that hard-wiring council seats to constituencies will induce their participation in ICANN. None of the noncommercial organizations that commented on the NCSG Charter said they would participate to ICANN only if NCSG's Charter secured the constituencies a guaranteed seat on the GNSO.

Myth 2

"More civil society groups will get involved if the Board intervenes."

A complete illusion. Board imposition of its own charter and its refusal to listen to civil society groups will be interpreted as rejection of the many groups that commented and as discrimination against civil society participation. ICANN's reputation among noncommercial groups will be irreparably damaged unless this action is reversed or a compromise is found. Even if we were to accept these actions and try to work with them, the total impact of the staff/SIC NCSG charter will be to handicap noncommercial groups and make them less likely to participate. The appointment of representatives by the Board disenfranchises noncommercial groups and individuals. The constituency-based SIC structure requires too much organizational overhead for most noncommercial organizations to sustain; it also pits groups against each other in political competition for votes and members. Most noncommercial organizations will not enter the ICANN GNSO under those conditions.

Myth 3

The outpouring of civil society opposition can be dismissed as the product of a 'letter writing campaign.'

An outrageous claim. Overwhelming civil society opposition to the SIC charter emerged not once, but twice. In addition, there is the massive growth in NCUC membership stimulated by the broader community's opposition to the staff and Board actions. Attempts to minimize the degree to which civil society has been undermined by these developments are simply not going to work, and reveal a shocking degree of insularity and arrogance. ICANN is required to have public comment periods because it is supposed to listen to and be responsive to public opinion. Public opinion results from networks of communication and public dialogue on controversial issues, including organized calls to action. No policy or bylaw gives ICANN staff the authority to decide that it can discount or ignore nearly all of the groups who have taken an interest in the GNSO reforms, simply because they have taken a position critical of the staff's. ICANN's

attempt to discount critical comments by labeling them a "letter writing campaign" undermines future participation and confidence in ICANN public processes.

Myth 4
"Civil society is divided on the NCSG charter issue."
Wrong. There has never been such an overwhelmingly lopsided public comment period in ICANN's history. While ICANN's staff is telling the Board that civil society is divided, the clear, documented consensus among civil society groups has been against the ICANN drafted NCSG charter and in favor of the NCUC one. Board members who rely only on staff-provided information may believe civil society is divided, but Board members who have actually read the public comments can see the solidarity of civil society against what ICANN is trying to impose on them.

Myth 5
"Existing civil society groups are not representative or diverse enough."
Untrue by any reasonable standard. The current civil society grouping, the Noncommercial Users Constituency (NCUC), now has 143 members including 73 noncommercial organizations and 70 individuals in 48 countries. This is an increase of more than 215% since the parity principle was established.[1] Noncommercial participation in ICANN is now more diverse than any other constituency, so it is completely unfair to level this charge at NCUC without applying it to others. Even back in 2006, an independent report by the London School of Economics showed that NCUC was the most diverse geographically, had the largest number of different people serving on the GNSO Council over time, and the highest turn-over in council representatives of any of the 6 constituencies. In contrast, the commercial users' constituency has recycled the same 5 people on the Council for a decade and upon the GNSO "reform", the first 3 of 6 GNSO Councilors from the Commercial Stakeholder Group will represent the United States.

Myth 6
"ALAC prefers the ICANN staff drafted charter over the civil society drafted charter."
False. One ALAC leader said that she prefers the staff drafted charter. ICANN staff ran away with this comment and falsely told the ICANN Board of Directors that ALAC prefers the staff drafted charter. In fact, the formal statement actually approved by ALAC said that many members of ALAC supported the NCUC proposal and that "the de-linking of Council seats from Constituencies is a very good move in the right direction."

Myth 7
"The NCUC charter would give the same small group 6 votes instead of 3."
False. For the past 8 months, NCUC has stated that it will dissolve when the NCSG is formed. It does not make sense to have a "Noncommercial Users Constituency" and a "Noncommercial Stakeholders Group," as they are synonymous terms. Thus, NCUC leaders would <u>not</u> be in

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[1] We encourage those GNSO constituencies who claim is NCUC is insufficiently large enough to deserve representational parity with commercial users on the GNSO Council to publish their own constituency's current membership roster, as NCUC does at:
http://ncdnhc.org/page/membership-roster.

control of a new NCSG – a completely new leadership would be elected. Under the NCUC charter proposal, all noncommercial groups and individuals would vote on Council seats, not just former NCUC members. Strict geographic diversity requirements would mean that candidates from throughout the world would have to be selected even if they could not get a majority of total votes.

Myth 8
"NCUC will not share council seats with other noncommercial constituencies."
Wrong. NCUC's proposed charter was designed to allow dozens of new noncommercial constituencies to form at will and to advance their own candidates for Council seats. Given the diversity and breadth of NCUC's membership, many different constituencies with competing agendas are likely to form. The organic, bottom-up self-forming approach to constituency formation is much better than the board/staff approach – and more consistent with the BGC recommendations. The SIC charter makes constituency formation very top-heavy and difficult, and gives the staff and Board arbitrary power to decide how "representative" or "significant" new participants are. Because it ties constituencies to Council seats, every new constituency instigates power struggles over the allocation of Council seats.

Myth 9
"The NCUC wants to take away the Board's right to approve constituencies."
False. People who said this have obviously not read the NCUC-proposed charter. NCUC's proposal let the board approve or disapprove of new constituencies formed under its proposed charter. Our proposal simply offered to apply some simple, objective criteria (e.g., number of applicants) to new constituency groupings and then make a recommendation to the Board. The idea was to reduce the burden of forming a new constituency for both the applicants and the Board. NCUC's proposal made it easy to form new constituencies, unlike the SIC charter, which makes it difficult to form new constituencies.

Myth 10
"The purpose of a constituency is to have your very own GNSO Council Seat."
False. Some claim GNSO Council seats must be hard-wired to specific constituencies because a constituency is meaningless without a guaranteed GNSO Council representative. However this interpretation fails to understand the role of constituencies in the new GNSO, which is to give a *voice* and a *means of participation* in the policy development process -- not a guaranteed councilor who has little incentive to reach beyond her constituency and find consensus with other constituencies. Two of the other three stakeholder groups (Registries and Registrars) adopted NCUC's charter approach of decoupling GNSO Council seats to constituencies, but NCUC has been prevented from electing its councilors on a SG-wide basis.

JOIN NCUC
All noncommercial organizations and individuals are invited to join NCUC and participate in policy development in ICANN's GNSO. Bring your experience and your perspective to Internet policy discussions and help protect noncommercial users of the Internet by participating at ICANN via the NCUC. Join today: http://icann-ncuc.ning.com/main/authorization/signUp?

<u>GLOSSARY OF ICANN ACRONYMS</u>

ALAC - At-Large Advisory Committee

ICANN's At-Large Advisory Committee (ALAC) is responsible for considering and providing advice on the activities of the ICANN, as they relate to the interests of individual Internet users (the "At-Large" community).

gTLD - Generic Top Level Domain

Most TLDs with three or more characters are referred to as "generic" TLDs, or "gTLDs". They can be subdivided into two types, "sponsored" TLDs (sTLDs) and "unsponsored TLDs (uTLDs), as described in more detail below.

In the 1980s, seven gTLDs (.com, .edu, .gov, .int, .mil, .net, and .org) were created. Domain names may be registered in three of these (.com, .net, and .org) without restriction; the other four have limited purposes. Over the next twelve years, various discussions occurred concerning additional gTLDs, leading to the selection in November 2000 of seven new TLDs for introduction. These were introduced in 2001 and 2002. Four of the new TLDs (.biz, .info, .name, and .pro) are unsponsored. The other three new TLDs (.aero, .coop, and .museum) are sponsored.

GNSO - Generic Names Supporting Organization

The GNSO is responsible for developing policy recommendations to the ICANN Board that relate to generic top-level domains (gTLDs).

The GNSO is the body of 6 constituencies, as follows: the Commercial and Business constituency, the gTLD Registry constituency, the ISP constituency, the non-commercial constituency, the registrar's constituency, and the IP constituency.

However, the GNSO is in the process of restructuring away from a framework of 6 constituencies to 4 stakeholder groups: Commercial, Noncommercial, Registrar, Registry. The Noncommercial and Commercial Stakeholder Groups together make up the "Non-contracting Parties House" in the new bi-cameral GNSO; and the Registrar and Registry Stakeholder Groups will together comprise the "Contracting Parties House" in the new GNSO structure (beginning Oct. 2009).

ICANN - The Internet Corporation for Assigned Names and Numbers

The Internet Corporation for Assigned Names and Numbers (ICANN) is an internationally organized, non-profit corporation that has responsibility for Internet Protocol (IP) address space allocation, protocol identifier assignment, generic (gTLD) and country code (ccTLD) Top-Level Domain name system management, and root server system management functions

NCUC - Noncommercial Users Constituency

The Noncommercial Users Constituency (NCUC) is the home for noncommercial organizations and individuals in the Internet Corporation for Assigned Names and Numbers (ICANN) Generic Names Supporting Organization (GNSO). With real voting power in ICANN policy making and Board selection, it develops and supports positions that protect noncommercial communication and activity on the Internet. NCUC works to promote the public interest in ICANN policy and is the only noncommercial constituency in ICANN's GSNO (there are 5 commercial constituencies). The NCUC is open to noncommercial organizations and individuals involved in education, community networking, public policy advocacy, development, promotion of the arts, digital rights, children's welfare, religion, consumer protection, scientific research, human rights and many other areas. NCUC maintains a website at http://ncdnhc.org.

NCSG - Noncommercial Stakeholders Group

The GNSO is in the process of being restructured from "6 constituencies" to "4 stakeholder groups", including a Noncommercial Stakeholders Group (NCSG) into which all noncommercial organizations and individuals will belong for policy development purposes, including members of the Noncommercial Users Constituency (NCUC). The NCSG and the Commercial Stakeholder Group (CSG) will together comprise the "Non-contracting Parties House" in the new bicameral GNSO structure beginning October 2009.

LINKS TO BACKGROUND INFORMATION:

NCUC Letter to ICANN Board and CEO on NCSG Charter Controversy:
http://bit.ly/BiOg8

Noncommercial Users Constituency (NCUC):
http://ncdnhc.org

NCUC submitted NCSG charter proposal:
http://gnso.icann.org/en/improvements/ncsg-petition-charter.pdf

Robin Gross on "*Is ICANN Accountable to the Public Interest?*":
http://ipjustice.org/ICANN/NCSG/NCUC-ICANN-Injustices.html

ICANN GNSO Chair Avri Doria on "*Why I Joined the NCUC*":
http://tiny.cc/EPDtx

Internet Governance Project: "*4 ICANN Board members dissent in vote on NCSG charter*":
http://tiny.cc/S5CjP

2006 London School of Economics Independent Report on GNSO:
http://www.icann.org/en/announcements/announcement-15sep06.htm