

## ICANN GNSO Council Restructure > Constituency Renewal Process

### Submission from the Commercial & Business Users Constituency (the BC)

January 2009

#### **Background**

<http://gns0.icann.org/en/improvements/renewal-process-en.htm>

The Board has requested the following of the BC by the February 2009 Board meeting:

1) Reviews its practices, operations, and charter documents, as appropriate, to evaluate its adherence to the requirements of Bylaw Article X, Section 5, Subsection 3, which require that each constituency represent the interests of its stakeholder communities globally and operates to the maximum extent feasible in an open and transparent manner, consistent with procedures designed to ensure fairness;

The full text is:

3. Each Constituency identified in [paragraph 1 of this Section](#) shall maintain its recognition, and thus its ability to select GNSO Council representatives, only so long as it in fact represents the interests globally of the stakeholder communities it purports to represent, and shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness. No individual or entity shall be excluded from participation in a Constituency merely because of participation in another Constituency.

2) Provides a written report to the Board (that includes its Board-approved charter) evaluating its compliance with its charter and Bylaw requirements on or before the February 2009 Board meeting, which is currently proposed for the first week of the month.

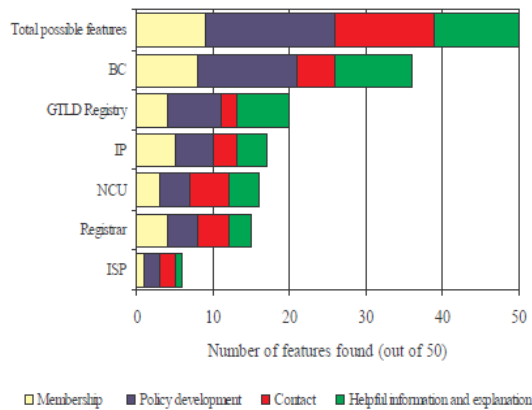
#### **1. Practices and operations**

The BC has existed since 1999 and its practices have evolved over time. Its original charter was revised in June 2003 at the time of the last ICANN reform and reflected learnings from the earlier period.

The BC operates in a fully transparent manner using its web site as its main window to the world. [www.bizconst.org](http://www.bizconst.org) Here can be found all relevant administrative documents as well as adopted policy positions.

This web site is regularly updated by the BC's part-time professional secretariat and received top-ranking in the LSE GNSO review of September 2006.

**Figure 9: Analysis of Constituency websites and the presence of 50 desirable features**



NOTE: The gTLD Registries have self-defined membership and therefore would not need to use their website to encourage new members. We would therefore expect a relatively lower score on the membership and contact category.

Source: LSE PPG analysis of Constituency websites

The website contains an explanation of the BC's outreach and policy development process. See below. Typically policy positions are reached by consensus following a combination of discussions via e-mail list and telephone conferences.

**The following procedure shall be used for developing written policy**

**1. Authorship**

The relevant Constituency working group Rapporteur will typically be responsible for preparing a first draft of a Business Constituency position or other paper and thereafter co-ordinating comments. However, any paid-up member of the Constituency is entitled to propose a position paper and, if there is sufficient support, be asked by the Officers to take on this role.

**2. Consultation and approval where there is no disagreement**

The draft position will be circulated for comment or posted on the web site. Members will be notified that there will be a 14 days' period for comment. If no comments are received the position will be deemed approved.

**3. Approval where there is initial significant disagreement**

Members who seek changes to a draft should submit proposed language in writing. If there are at least 3 members who oppose a position a mechanism to discuss the issue will be provided by the Rapporteur with the assistance of the Officers. This may be an e-mail discussion, a conference call or discussion at a physical meeting. If the majority of discussion members support the draft position, the position will be deemed approved.

**4. Approval where there is continued disagreement**

Where the discussion mechanism indicates a split in the Constituency of more than 10% of the number of paid-up members, there will then be a vote (typically by e-mail) on the position. Only the designated representatives of members will be eligible to vote. Proxy votes are allowed subject to written notification to the secretariat by the designated representative of the member before the start of the voting period and subject to the proxy conditions of article 3.5. Only members who have settled their fees will be eligible to vote.

A position paper which has the support of at least a simple majority of 51% of the eligible votes in favour will be deemed adopted by the Constituency so long as the total number of members voting represents not less than a quorum of 51% of paid-up members. Where a quorum is not reached the Officers will decide whether a re-vote, re-thinking or publication of a minority position is required and the process will then repeat as appropriate.

## **5. Solidarity**

When a member declares themselves as speaking in the capacity of a BC member (as opposed to simply speaking for themselves), members shall remain faithful to approved positions. While fulfilling their official role, the Constituency representatives to the Names Council will be required to support such positions en bloc.

## **6. Updates**

From time to time updates may be needed to position papers. The Officers at that time will appoint a Rapporteur to co-ordinate the revision and the procedure above will be followed.

## 1.2 Membership

The BC's membership currently stands at 48. Membership has a certain turnover each year. The BC gained 8 new members in 2007 and 16 in 2008. The following is a clip from the web site.

The BC represents business of all types - multi-nationals, medium-size companies and small enterprises. One of the Constituency's strengths is its association membership - which extends BC outreach directly to over 50,000\* companies and indirectly to over 1.5 million companies worldwide. Over 88% of these are small and medium enterprises (SMEs).

\* see below

Company	Known as	Country	Web
AIM - European Brands Association	AIM	Belgium	
Altronics		USA	
Andalucia.com		Spain	
Banks in ICANN Consortium		USA	
Castello Cities Internet Network	CCIN	USA	
Coalition Against Domain Name Abuse	CADNA	USA	
Columbus VC (Richemont Group)		Switzerland	
Cyveillance		USA	
Dell Inc.		USA	
DirecTV		USA	
Domainmanager.com		USA	
Domain Name Dispute Resolution Center (Pakistan)	DNDRC	Pakistan	
DotBERLIN		Germany	
Ebay		USA	
Eli Lilly		USA	
European Telecommunications Network Operators Association	ETNO	Belgium	
Expedia Inc		USA	
Fairwinds Partners		USA	
Fujitsu		USA	
HP		USA	
HSBC		UK	
InterBorder Holdings		Canada	

International Chamber of Commerce	ICC	France	◆
Internet Commerce Association	ICA	USA	◆
Leap of Faith Financial Services	LOFFS	Canada	◆
Dr Liz Williams		UK	◆
mCADE		USA	
MEDEF		France	◆
Motion Picture Association	MPA	USA	◆
Name Administration	NAmedia	BVI/Cayman Islands	◆
Net Choice		USA	◆
News Corporation		USA	◆
Nike		USA	◆
Nokia		Finland	◆
Palage Consulting		USA	◆
Parked.com		USA	◆
Rabio Corporation		USA	◆
RNA Partners		USA	◆
Rodenbaugh Law		USA	◆
Simon Property Group		USA	◆
Talal Abu-Ghazaleh & Co. International	TAGI	Egypt/Jordan	◆
The O'Connor Company of St Paul		USA	◆
Time Warner		USA	◆
United States Council for International Business	USCIB	USA	◆
Verizon		USA	◆
World Information Technology and Service Alliance	WITSA	USA	◆
Yahoo!		USA	◆
Zip.ca		Canada	◆

Member	Company total	SMEs	%
	<b>55270</b>	<b>48862</b>	<b>88%</b>
AIM	1764	524	30%
BIC	5	0	0%
CADNA	11	0	0%
ETNO	40	0	0%
ICA	92	76	83%
ICC*	5000	4350	87%
MEDEF*	10000	9500	95%
MCAA	7	0	0%
NetChoice	18014	18000	99%
USCIB	300	0	0%
WITSA	20000	16400	82%
Others	37	12	36%

\*estimate

### 1.3 Individuals

Individuals who are organized as businesses (sole proprietorships, partnerships, LLC's, etc.) have been welcomed into the BC since its inception in 1999. They pay a fee of Euro 250 per year. Some of the BC's most active members are in this category. Other fee information is on the web site.

### 1.4 Member applications

New members complete an application form which is checked for completeness by the secretariat and reviewed by a credentials committee. The Credentials Committee members are selected to ensure they represent a range of organisations both large and small, individuals and associations.

### 1.5 Representation

The volume of policy work demanded within ICANN is far greater than is possible for the three GNSO representatives. The BC uses a system of rapporteurs (policy leads) supported by sub-committees for those issues it chooses to follow. It also ranks issues according to their importance to the BC.

The chart overleaf is the position as clipped from the web site as at January 2009.

## Rapporteurs

One rapporteur (R) is appointed to lead on each major policy issue, to draft position papers when required and act as a spokesperson on the issue. For most active policy groups there is also one support (S) who may deputise for the rapporteur, and one or more observers (O). Council has a variety of voting rules for its different groups. PDP after the issue name means there is an active policy development process.

A task force (TF) is a focused constituency-based group active developing policy whereas a working group (WG) is either a pre-policy discussion group that may lead to the formation of a focused task force, or a broadly based policy forming group.

For most issues the BC uses [subject headers] in e-mails sent to the members list. These are indicated after the name of the issue. Subject headers can be used to filter incoming e-mails to specialised inboxes using the "rules" function in your e-mail software.

The BC applies a priority system to issues.

- 1 - top priority, active engagement, BC position papers track and update an issue as needed
- 2 - medium priority, occasional BC position papers to set principles
- 3 - low priority, may be a hot ICANN issue, but has low impact on business users, unlikely to even write a BC paper.

## Issue and representation

### Registrations Abuse Policy [abuse]1

Mike Rodenbaugh (R) ◆

### BC charter revision [charter]1

Philip Sheppard (R) ◆  
Mike Rodenbaugh Board liaison  
Zahid Jamil SME ICC liaison  
Liz Williams NCUC/ALAC liaison  
Ron Andruff CIG and Registry liaison  
Marilyn Cade drafting  
Anders Halvorsen

### GNSO reform teams [reform]1 Policy Steering Committee PSC

Mike Rodenbaugh (R) ◆  
Alternate: Zahid Jamil  
PDP team - Liz Williams  
Working Group team - Mike O' Connor

### Operations Steering Committee OSC

Philip Sheppard (R) ◆  
Alternate: Ron Andruff  
GNSO Operations team - Ron Andruff  
Constituency Ops team - Zahid Jamil  
Communications team - Chris Chaplow

### gTLDs RFP [tld] 1

Mike Rodenbaugh (R) ◆  
Phil Lodico (S)  
David Fares (O)  
Wendy Chan (O)  
Fabricio Vayra (O)  
Ron Andruff (O)  
Liz Williams (O)  
Mike O'Connor (O)  
J Scott Evans (O)  
Susan Kawaguchi (O)  
George Kirikos(O)  
Michael Collins (O)

### Business Outreach Liaison 1

Ayesha Hassan ◆  
Zahid Jamil (S)

### GNSO Travel Expenses [travel] 2

Zahid Jamil (R) ◆

### IRTP [transfers] 1


Mike Rodenbaugh (R) ◆  
Mike O'Connor (S)  
Michael Collins (O)

### RAA Proposal [RAA] 1


Liz Williams (R) ◆

Michael Collins (S)  
Mike Rodenbaugh (O)


**Registry Failover Plan [failover] 1**

Michael Collins (R)   
Mike Rodenbaugh (S)


**Fast Flux PDP [flux] 1**

Mike Rodenbaugh (R)   
Mike O'Connor (S)  
Phil Lodico (O)


**Whois [whois] 1**

Steve DelBianco (R)   
David Fares (S)  
Mike Rodenbaugh (O)

**Domain Tasting PDP [tasting] 1**

Mike Rodenbaugh (R) 

**ICANN regions [regions] 2**

Zahid Jamil (R) 

**Strategic/Operational Plans [plans] 2**

Mike Rodenbaugh (R)   
Marilyn Cade  
Mike O'Connor  
Mike Palage

**Internet Governance Forum [igf] 3**

Heather Shaw (R)  \_

**Single-letter/digit domains [single] 3**

**IPV6 [ipv6] 3**

**Credentials Committee**

The Credentials Committee checks that applicant members meet the criteria for membership as laid out in the BC Charter. Based on this information, it then recommends membership or whether the applicant would be better served by a more appropriate constituency.

**Credentials Committee**

David Fares

Mike O'Connor

Liz Williams

Philip Sheppard (rep liaison)

**Contact**





## Nominating Committee 2008-2009

The BC appoints two members to ICANN's nominating committee representing small and large business.

### Nominating Committee

Liz Williams - SMEs

Phil Lodico - large business

### Contact



## 2. Charter

The BC's Charter was last updated in June 2003 and submitted and approved by the ICANN General Counsel at that time. A copy is on the web site and clipped below:

### Charter and statement of operating procedures of the Commercial and Business Users Constituency

June 2003

#### List of Articles

#### 1. Background

#### 2. Mission statement

#### 3. Membership

#### 4. Structure

#### 5. Elections

#### 6. Issue management

#### 7. Policy development

#### 8. Membership fees

#### ▶ 1. Background

This document is the rules of procedure or charter for the Commercial and Business Users Constituency of the Generic Names Supporting Organization (GNSO) of the Internet Corporation for Assigned Names and Numbers (ICANN), California, USA, hereafter the Business Constituency, the BC or the Constituency. The Business Constituency represents both large and small commercial entity users of the Internet. The Business Constituency is that entity referred to in Article X.5(d) of the ICANN bylaws.

#### ▶ 2. Mission Statement

The mission of the Business Constituency is to ensure that:

- the Constituency fully represents the views of the Internet business user community,
- ICANN policy positions are consistent with the development of business via an Internet that is stable, secure and reliable while promoting consumer confidence.

- ICANN policy positions derive from broad stakeholder participation in a common forum for suppliers and users with an advisory role for governments.

### 3. Membership

Members of the Business Constituency use the Internet to conduct business. The Business Constituency is a constituency representing customers of providers of connectivity, domain names, Internet Protocol addresses and other services related to electronic commerce in its broad sense.

#### **3.1. The following may become members of the Business Constituency:**

- Subject to 3.2, any legally recognised for-profit entity that has been delegated a domain and that uses the Internet to conduct for-profit business.
- Subject to 3.2, any organization such as a trade association representing such entities.

#### **3.2. Specificity\***

In keeping with the selective membership criteria of other GNSO constituencies, the Business Constituency represents the interests of a specific sector of Internet users. The purpose of the Constituency is to represent the interests of businesses using the Internet for, in its broad sense, electronic commerce with customers.

To avoid conflicts of interest, this typically excludes for-profit entities whose primary relationship with ICANN is as a domain name service provider, such as a registry or registrar, as well as from other groups whose interests may not be aligned with business users.

#### **3.3. Credentials Committee**

All membership applications will be reviewed by a Credentials Committee which shall comprise at least three paid-up members of the Constituency, appointed by the Officers (as defined in 4.2) for a term of up to two years, with re-appointments possible. In the event of any appeal the Credentials Committee will take all reasonable measures to establish the facts of the appeal, review these facts and the final decision will be certified by the Officers. A rejected applicant or appellant will be informed in writing of the decision including the rationale relevant to this Charter. A membership may be reviewed by the Credentials Committee if there is a change in the circumstances of the member that may impact on its qualification for membership.

#### **3.4. Settlement of Fees**

Once approved by the Credential Committee an applicant must settle membership fees quickly in order to participate in the Constituency. A successful applicant who fails to settle fees within 90 days of the date of the first invoice, at the discretion of the Officers, may be asked to re-apply.

#### **3.5. Members' Representative**

A member shall designate one representative as the principal point of contact and for voting. That person is the only person ordinarily able to vote on behalf of the member. The designated representative must be either a director or employee of that member but not an affiliate or connected undertaking. An association member will ordinarily designate a staff member as its representative but may choose to designate a director or employee of one of its member companies, subject to annual notification.

A member may also appoint a voting proxy for a specific meeting of the Constituency. The proxy must fulfil the conditions above for the designated representative or be another member's designated representative to the Business Constituency. Notification of a proxy must be made in writing to the secretariat 48 hours before the start of the meeting.

#### **3.6. Discipline**

At the request of at-least two paid-up members and following a thorough review by the Officers and the Credentials Committee, a member, who over a sustained period of time acts in conflict to this Charter, or who engages in acts which appear to be inappropriate for the stability, functionality or bona fide reputation of the Constituency, or who is or threatens to be a vexatious litigant, may have its membership terminated at the discretion of the Officers and the Credentials Committee.

## 4. Structure

### 4.1. GNSO Council representatives

As specified in the ICANN by-laws two or three designated representatives of paid-up members shall be elected by members as GNSO Council representatives to serve a two-year term. As specified in the ICANN by-laws, the regular term of one representative selected by the Constituency shall begin in an even-numbered year and the regular term of the other representative(s) selected by the Constituency shall begin in an odd-numbered year.

The representatives will act in the GNSO Council as representatives of and spokespersons for the Constituency and will collaborate with other members of the Council in pursuit of the mission of the Constituency.

In order to assure geographical diversity, no two Council representatives may be citizens defined by nationality of the same geographic region as defined from time to time within the ICANN bylaws. For information purposes there were five such regions in 2003: Europe; Asia/Australia/Pacific; Latin America/Caribbean Islands; Africa; North America.

The Constituency may appoint the designated representative of a member to fulfil the term of office of an elected GNSO Council representative following the resignation of the elected representative or in the event of a change in designated representative of a member. If either event should occur with more than six months remaining in his or her term, typically an election will be held.

### 4.2. Officers

The GNSO Council representatives shall be the Officers of the Constituency and fulfil the function of an executive committee. The Officers are tasked with fulfilling the Constituency mission via administrative supervision and co-ordination. The Officers will inter alia:

- lead policy development in the Business Constituency;
- propose issues for Rapporteurs and task forces (see 6.1, 6.2);
- ensure notification of relevant ICANN or GNSO decisions to the Constituency;
- chair BC meetings;
- confirm appointments to any committees, task forces or other such representative roles and make any changes as appropriate over time;
- select, and oversee the work of, a secretariat.
- delegate to a moderator, typically the secretariat, the administration of a policy for Constituency e-mail lists.

### 4.3. Secretariat

There shall be a professional secretariat responsible for the day to day administration of the Constituency. Typically the following services, which may be changed by the Officers from time to time, will be provided by the secretariat:

- web site hosting, design and updating

- an e-mail list of members
- membership fee administration and financial reporting
- co-ordination of physical and telephone meetings

## 5. Elections

**5.1.** The election process for the representatives to the GNSO Council will be initiated by a nomination period of one week. Any paid-up member of the Business Constituency may nominate one person. This process (including receiving nominations, communicating nominations and publishing an overview of results) will be initiated and managed by the secretariat.

**5.2.** Immediately following the nomination period, the secretariat will open an election period of one week, during which it will receive votes from members of the Constituency electronically, typically via e-mail.

**5.3.** The winner(s) will be candidates receiving the largest number of votes.

**5.4.** In case of a tie a new election will be held among the nominees in the tie.

**5.5.** Depending on category BC members have 3, 2 or 1 vote(s). Votes are cast as a block and are not divisible. The secretariat will allocate votes cast according to category (as defined in article 8).

**5.6.** Proxy votes are allowed subject to written notification to the secretariat by the designated representative of the member after the nomination period and before the start of the voting period and subject to the proxy conditions of article 3.5.

**5.7.** Votes shall be counted and elimination made as follows.

- Elimination 1: upon the completion of the initial ballot, all nominees from the same region as the person with the largest number of votes will be eliminated and that person is elected.
- Elimination 2: from the resulting list, all nominees from the same region as the person with the largest number of votes in that new list will be eliminated and that person is elected.
- Elimination 3: from the resulting list the person with the largest number of votes in that new list is elected.

## 6. Issue Management

**6.1.** From time to time the Officers shall appoint members as Rapporteurs (issue managers) to develop positions on relevant issues. This role involves drafting and consultation with the members and the officers.

**6.2.** From time to time the Officers shall set up committees or task forces to initiate positions on relevant issues or for membership sub-sets.

**6.3.** Wherever possible the Constituency will produce written positions on relevant issue

## 7. Policy development

The following procedure shall be used for developing written policy.

### **7.1. Authorship**

The relevant Constituency working group Rapporteur will typically be responsible for preparing a first draft of a Business Constituency position or other paper and thereafter co-ordinating

comments. However, any paid-up member of the Constituency is entitled to propose a position paper and, if there is sufficient support, be asked by the Officers to take on this role.

## **7.2. Consultation and approval where there is no disagreement**

The draft position will be circulated for comment or posted on the web site. Members will be notified that there will be a 14 days' period for comment. If no substantively opposing comments are received the position will be deemed approved.

## **7.3. Approval where there is initial significant disagreement**

Members who seek changes to a draft should submit proposed language in writing. If there are at least 3 members who oppose a position a mechanism to discuss the issue will be provided by the Rapporteur with the assistance of the Officers. This may be an e-mail discussion, a conference call or discussion at a physical meeting. If the majority of discussion members support the draft position, the position will be deemed approved.

## **7.4. Approval where there is continued disagreement**

Where the discussion mechanism indicates a split in the Constituency of more than 10% of the number of paid-up members, there will then be a vote (typically by e-mail) on the position. Only the designated representatives of members will be eligible to vote. Proxy votes are allowed subject to written notification to the secretariat by the designated representative of the member before the start of the voting period and subject to the proxy conditions of article 3.5. Only members who have settled their fees will be eligible to vote.

A position paper which has the support of at least a simple majority of 51% of the eligible votes in favour will be deemed adopted by the Constituency so long as the total number of members voting represents not less than a quorum of 51% of paid-up members. Where a quorum is not reached the Officers will decide whether a re-vote, re-thinking or publication of a minority position is required and the process will then repeat as appropriate.

## **7.5. Solidarity**

When a member declares themselves as speaking in the capacity of a Constituency member (as opposed to simply speaking for themselves), members shall remain faithful to approved positions. While fulfilling their official role, the Constituency representatives to the GNSO Council will be required to support such positions en bloc.

## **7.6. Updates**

From time to time updates may be needed to position papers. The Officers at that time will appoint a Rapporteur to co-ordinate the revision and the procedure above will be followed.

## **▶ 8. Membership Fees**

The Business Constituency has the right to require membership fees. These shall be set by the Officers following consultation with the members from time to time in accordance with sound financial management, including an option of group membership schemes, and fall into three categories of declining price and voting eligibility.

**Category 1:** companies (which are not micro enterprises) - 3 votes; associations spanning more than one ICANN region - 3 votes.

**Category 2:** an association spanning one ICANN region - 2 votes.

**Category 3:** micro enterprises defined as companies which can demonstrate both less than 10 employees and a turnover of less than Euro 0.5 million - 1 vote.

The Constituency's membership year is a calendar year. Members will be invoiced annually for fees. A member joining during the first six months of the year will be invoiced for that year at a monthly pro-rata. A member joining during the last six months of the year will be invoiced for the current year at a monthly pro-rata plus one full year for the following year. A member not paying

a renewal demand shall lose all rights and benefits of membership on the 14th day following the date on which the second reminder invoice is sent. Members who lapse membership due to a failure to pay fees may be reinstated if payment is made within 45 days after the lapse. Beyond 45 days they will typically be required to re-apply.

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### **Statement of Compliance**

The BC hopes the above information is sufficient for the current Board request. In the interests of efficiency we did not wish to burden Board members with unnecessary documentation. There is much supplementary information on the web site at [www.bizconst.org](http://www.bizconst.org) . Additional questions may be asked of the secretariat at [secretariat@bizconst.org](mailto:secretariat@bizconst.org)

The BC is currently discussing with the ISP and IPC constituencies the content of a Commercial Stakeholder Group Transitional Charter. The BC expects to make appropriate amendments to the BC charter to be compliant with this stakeholder group charter after its adoption.

The Officers of the BC believe that the current practices, operations and charter of the Constituency are fully compliant with the ICANN Bylaw Article X, Section 5, Subsection 3.

Philip Sheppard  
Mike Rodenbaugh  
Zahid Jamil

January 2009.