

## **Overview of New Arrangements for NICC**

The new arrangements build on the successful model employed by NICC to date, so in many respects, NICC's standards development work will continue as before.

### ***Objectives of the Changes***

The objectives of the changes are:

- to establish NICC as an independent organisation owned by the Industry;
- to ensure that the new arrangements provide adequate protection for participants;
- to raise NICC's profile both within the UK and internationally;
- to raise the level of Industry participation in NICC activities and broaden participation to include organisations outside the traditional telco. sphere that have hitherto been less active; and
- to improve the UK's influence over international standards activities to ensure that UK interests are taken into account;

### ***Name***

NICC has long been known by the abbreviation of its formal title (Network Interoperability Consultative Committee) and will therefore adopt NICC as part of its name with the introduction of the new arrangements. The new company is called NICC Standards Limited.

### ***Structure***

Ofcom has taken external legal advice which has recommended that the most appropriate structure for NICC is as a company limited by guarantee. This will enable NICC to have its own legal personality, thereby protecting its members in the event of a third-party claim against NICC, as well as being a suitable vehicle for an industry-owned and managed body.

NICC will be governed by its Board of Directors. It is anticipated that the members of the existing NICC consultative committee board will become the first Directors of NICC Standards Limited and form its interim Board of Directors for a transitional period. The Board will consist of up to 15 senior representatives of member organisations representing a broad cross-section of industry interests and members will be invited to nominate representatives to the NICC Board and, if necessary, to participate in Board elections in November-December 2008.

The Institution of Engineering and Technology (the "IET") will perform NICC's secretariat function and will fulfil the role of Company Secretary.

### ***Membership***

NICC will have three classes of member:

- Full Member – open to communications providers and the equipment supplier community. Full Members may participate in NICC Working Groups and are eligible to nominate an individual to serve as a Director on NICC's Board, to vote in elections of Board members and to vote to approve standards.
- Associate Member – open to any organisation with a legitimate commercial, technical or other interest in NICC's work. Associate Members may participate in NICC Working

Groups but are not eligible to nominate an individual to serve as a NICC Director, to vote in elections of Board members or to vote to approve standards.

- Observer Member – open to Ofcom, the BERR, and other organisations at the discretion of the NICC Board. Observer Members are allowed to attend Board Meetings in a non-voting capacity.

After a transitional period during which NICC will advertise the new arrangements and seek membership applications, all organisations that participate in NICC activities at either Working Group or Board level will need to become members of NICC (see timetable below).

Members will not need to renew their membership annually and will remain members until they give notice to withdraw from NICC.

### ***IET Participation***

The IET has agreed to host NICC, taking on its secretariat functions. IET already performs a similar role for other industry bodies, notably for the electrical wiring regulations and NICC will therefore be able to benefit from the IET's considerable experience.

### ***Rules and Procedures***

NICC's activities will be governed by a detailed set of rules as set out in the company's constitution and associated documents, namely

- Memorandum of Association;
- Articles of Association;
- IPR Policy; and
- Anti-Trust Policy.

Copies of these documents are posted on the NICC website [www.nicc.org.uk](http://www.nicc.org.uk)

### ***Membership Fees***

Under the new arrangements, NICC will charge membership fees to cover what are anticipated to be its modest administrative costs. However, in order to smooth the transition, Ofcom will provide funding of £70,000 to cover the budgeted expenditure for the first year of operation under the new arrangements. NICC will not therefore levy membership fees and should not need to ask members for any other financial contribution during the first financial year of operation which will run from June 2008 to 31 March 2009.

Membership fees for subsequent years will be proposed by the NICC Board and will be subject to the approval of members at the NICC Annual General Meeting which the NICC Board plans to hold in November each year. Membership fees will be dependent on both the budget demands and number of organisations expected to take up membership. Assuming NICC costs and membership remain at approximately their current level, and assuming 2:1 ratio for Full Member to Associate Member fees, annual fees for the second year of operation would be approximately £2000 for Full Members and £1000 for Associate Members. A key aim of the new arrangements is to widen participation in NICC activities. The NICC Board aims to keep membership fees at appropriate levels to ensure that membership fees do not present a barrier to participation.

NICC rules allow the NICC Board to levy additional contributions from members (not exceeding 25% of membership fees without prior approval of members by special

resolution). The NICC Board does not intend to levy additional contributions except in exceptional circumstances.

### ***Arrangements for Collection of Membership Fees***

NICC will issue invoices for membership fees shortly after fees are set at the Annual General Meeting. Membership fees will then be payable in full annually in advance with payment being due from existing members on the later of 1<sup>st</sup> April or 60 days from the date of the invoice.

For subsequent joiners, the full membership fee will be payable for those joining during the first 6 months of the financial year and 50% of the full membership fee will be payable for those joining in the second half of the financial year. Membership fees, once paid will not be refundable.

In order to give NICC early visibility of its membership fee income NICC will require members to give 60 days notice of withdrawal. The constitution specifies that NICC may not issue membership invoices earlier than 7 days after fees are set at the AGM and that fees should not become payable until at least 60 days from the date of the invoice. This effectively gives members a minimum of 7 days to give notice of withdrawal after fees are set in order to avoid becoming liable to pay membership fees for the following year. However, in normal circumstances the NICC Board intends to issue membership invoices in December with payment due on 1 April, effectively giving members until 26 January to give notice of withdrawal in order to avoid becoming liable to pay membership fees for the following financial year.

### ***Standards Development and Approval***

NICC will continue to develop standards in a collaborative manner, aiming to agree standards by consensus of all NICC members wherever possible. However, the NICC Board will have the option to invoke a formal voting process of Full Members in cases where consensus can not be achieved.

### ***Potential Members Liabilities***

Under the current arrangements, Ofcom is the publisher of NICC standards. One of the concerns raised about the new arrangements was that members might not be as well protected from third-party claims when NICC takes on the role of publisher. Such claims might arise, for example, if the NICC standard infringes a third party's intellectual property rights or if a third party suffers loss as a result of its use of a NICC standard which contains a technical error. Ofcom has therefore obtained legal advice about potential liabilities for NICC and for NICC participants and the new arrangements are designed to ensure that members are afforded at least the same level of protection as they have at present as participants in the NICC standards development and publication process. The principal means by which NICC members will be protected are:

- NICC will be a limited company, with its own separate legal personality, in order to confine any liability relating to NICC publications to NICC in the event of a third-party claim;

- Members' financial liability to NICC (other than payment of membership fees and any additional contributions levied by the Board) will be limited to an obligation to pay the sum of £1 in the event of NICC's insolvent liquidation;
- NICC will continue Ofcom's practice, when publishing standards, to disclaim liability to third parties; and
- NICC will adopt an IPR policy and procedures closely modelled on those used by ETSI which has considerable experience of IPR liability issues.

It is worth noting that, to date, NICC's work has not been the subject of any third-party claim against those who have participated in NICC's standards development work and publication.

### ***The NICC Website***

Once the new arrangements are implemented the NICC website will have a much needed redevelopment to both the public pages and also the private members pages where NICC working documents are stored. NICC will retain its current URL [www.nicc.org.uk](http://www.nicc.org.uk).

### ***Timetable for the Introduction of the New Arrangements***

There will be a transitional period of approximately six months during which an interim NICC Board will supervise the transition to the new organisation and ensure that the NICC work programme continues without disruption. The timetable for the transition is as follows:

June to Sept 2008	The NICC Board will advertise the new organisation widely in the communications sector and seek applications for membership.
1 Sept 2008	Organisations must have become members of NICC in order to continue to participate in NICC working group activities.
Sept-Dec 2008	NICC Board will seek nominations from members for the NICC Board and organise an election of Board members