

Workshop on Member States' experiences with ccTLD

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DOCUMENT FOR ccTLD WORKSHOP

Source: Niue
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1 BACKGROUND

Niue is a small island nation in the South Pacific. It is approximately 120 square Kilometers. Although a place of great natural beauty, due to the natural topography, it has no suitable harbors for cruise vessels. Its primary link to the outside is via air travel, however there are only a few flights per week to the island. It is an independent nation, in free association with New Zealand. Its natural resources are limited and communications are through a leased circuit on a satellite. As a result of these factors, their national budget is exceedingly tight and there is little to spare to fight legal battles. In 1997, the rights of the sovereign county of Niue to participate in the Internet and to control the utilization of their ccTLD, ".nu", were usurped. Niue, as a small developing nation has been unable to have those responsible rectify their actions and return control to the nation. Niue cannot bring legal weight to bear against the ccTLD registry manager as the manager's place of residence is in the United States and his base of operations is primarily in Europe. There is no apparent forum where the actions taken by the US Dept of Commerce and IANA can be made right. Fear of legal action by the manager has made them unwilling to act. WIPO is not a suitable avenue to gain the return of the gov.nu name. Niue is effectively blocked from participation in the Internet, even to communicate with its own citizens at home or abroad.

While Niue fully adheres to and supports the principles utilized by ICANN and established by the GAC for the management of ccTLDs, the ccTLD manager has taken every measure possible to avoid the utilization of these concepts, preferring instead to support his claim only through RFC 1591. As such, many of the efforts of the Government have been to show that even under RFC1591, the delegation is flawed and should be re-delegated per the laws and national public policy of Niue.

History of IUSN Establishment

In 1997 an organization named the Internet Users Society – Niue (IUSN) obtained from IANA the registry rights to Niue's ccTLD. IUSN consists of a New Zealander named Stafford Guest, an American ex-Peace Corp representative named Richard St. Clair, and an American businessman named William Semich. The planning and control of the situation rests with Mr. Semich, who resides near Boston, Massachusetts, USA. Niueans do not own or control the group and have no manner in which to ascertain what is occurring nor to influence the decisions made. Mr. Guest and

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St. Clair live in Niue and supposedly met the criteria for the Administrative Contact to live in the country of the ccTLD being managed. The nature of the authority or agreement with the Government of Niue (GON) was undocumented. The closest to an official link to the GON is a secretary from the Attorney General's Office whose name appears in the IANA records. The secretary had no authority to bind or commit the GON or dispose of national assets. Initially this secretary was designated as the Administrative Contact.

Subsequently, Semich had her name replaced with that of Guest's, thereby removing any possibility of Government insight or oversight. Under oath, the secretary stated in 2002 that she had no knowledge of the steps taken by Wm Semich. IANA's records make it clear that IANA made no attempt to verify the legitimacy of any of these actions.

In 1998 the Government began the process of attempting to regain control of the name "gov.nu". In clear violation of the normally accepted principles of domain management, IUSN registered the name to itself, claims that it owns the name and refuses to relinquish the name to the Government. They base their refusal on the premise that to do so would "threaten the stability of the Internet".

Memorandum of Understanding

A Memorandum of Understanding (MOU) covering the provision of email service to the Island via an ISP run by IUSN was signed in January 1999. On Niue, Guest and St. Clair have repeatedly asserted that the MOU has nothing to do with the .nu domain name issue, while off island they point to it as proof of the GON's acceptance of their claim to the domain name. It should be noted that in a further effort to lend an air of legitimacy to their effort, the "contract" that any user must sign to gain an email account includes wording that acknowledges IUSN's right to the domain name. Since the MOU covered GON access to the email, many in the GON see this as unacceptable. The Crown Counsel to the GON has refused to sign such a document and has been denied an email account.

In many of the initial actions taken by the GON they were advised by St. Clair, who was originally a Peace Corps volunteer to Niue and subsequently on private contract to the GON as an advisor. After the GON accepted his advice that the domain name meant nothing to the country and they should take no action to reclaim it, St. Clair immediately resigned as advisor to the GON and went to work officially with Guest and Semich. The activities of St. Clair represent a significant conflict of interest, and suggest a level of complicity from the founding members of IUSN.

After more than 12,000 names had already been registered, and also after the GON request for the return of gov.nu, IUSN stated that any contracts or agreements it might make with other entities regarding the use of the domain name would be tendered to the Government for review. This has never occurred.

IUSN Corporate Structure

While IUSN is classified as non-profit organization (registered in Delaware), Semich, as head of IUSN, formed a for-profit company called .NU Domain Ltd. (NDL) and ceded the management of Niue's ccTLD to this for-profit entity (also registered in Delaware). NDL began selling secondary domain names in Niue's domain name space as well as building a marketing organization by giving rights to register names to other organizations.

In return for exclusive management rights to Niue's ccTLD, NDL pays a fee to IUSN of approximately US\$200,000 per annum. This fee is used by IUSN to meet all operational costs associated with on-island activities (wages, travel expenses, connectivity expenses, etc.). Nevertheless, and despite the less than arms length relationship between IUSN and NDL, NDL retains control over the majority of revenue generated from the sale of .nu domain names. None of

the proceeds have ever gone to the GON. Mr. Guest, who is theoretically the treasurer of IUSN, has stated that he has no idea of the revenue or costs associated with IUSN or NDL. He has denied having any financial knowledge, insight or input regarding any funds due to the Government.

Development of GON Information Technology Policy

The GON has recognized that in order for Niue to create a sustainable and viable private sector, developmental priority must be given to the information technology (IT) based sector. This sector has the necessary elements to overcome some of the traditional constraints of physical isolation and limited physical resources that have hampered development in other sectors, such as agriculture and manufacturing. In order to be positioned for private sector-led economic growth in the new millennium, the GON must carefully lay the correct IT foundation. The Niue Information Technology Committee (NITC) was formed to achieve these goals. The NITC was formed to establish a government policy for IT in its many forms and to work towards the development of an information technology infrastructure. This developmental priority has been comprehensively incorporated into Niue's National Development Plan. In its role as Registry Manager of a national asset, Registrar of names, and ISP, IUSN and NDL have not cooperated with the GON policy to develop an IT industry. Instead, IUSN and NDL have used technical management of the registry as their basis for a claim to any and all economic benefits associated with national asset.

Early Communications by the NITC (late 1998)

As a developing nation, Niue cannot afford to ignore the potential of the Internet, e-commerce and remote sensing if it is to be a part of the evolving world order. As a part of that effort, the NITC has a legislative responsibility to determine the actual situation concerning the current IT environment in respect of its conformity with GON policy. In that regard, it was necessary to obtain details regarding the management and administration of their ccTLD. Since Mr. Semich was treating it as an open domain, the Government requested information regarding the marketing of Niue's ccTLD.

Information was requested from IUSN concerning the specifics of a loosely defined and poorly communicated situation. The GON sought to mutually develop a contract with IUSN that would clarify respective roles and responsibilities. When the NITC sought to determine the status of the domain name, IUSN threatened the GON with legal action as well as steadfastly refusing to provide the requested information. It should be noted that the submission of most of the requested information was required pursuant to provisions of the Development Investment Act 1992.

When there was no response from Semich and IUSN, nor the provision of the requested information, nor any willingness to sit down to discuss/negotiate, the NITC position became modified. The IUSN refused to communicate and provide information that should already be publicly accessible by the law (State of Delaware, USA) under which they state they are incorporated. Their refusals have needlessly cost the GON a great deal of time and money. Furthermore, it is unclear whether IUSN is being principally operated as a for-profit or non-profit organization. It appears that IUSN has attempted to raise a veil of secrecy by *illegally* ceding to a for-profit organization – Nu Domain Ltd – the control of the .nu domain registry and then claiming that the for-profit corporation does not have to provide information. No provision in any document has ever given IUSN the authority to unilaterally transfer their responsibilities to any other organization. It is a clearly stated principal of IANA, ICANN, the US Government and International forums and organizations that ultimate authority over the country code domain name belongs to the government. Furthermore, it is a matter of national law in Niue that the NITC is the designated Registry Manager.

GON contractual relationship with Domain Name Manager

Given the efforts on the part of IUSN to confuse the issue and their refusal to discuss the substantive issues of concern to Niue, it became clear that the GON had to consider a course of action that might necessarily lead to terminating the existing relationship with IUSN. Niue cannot afford to have such a unique and valuable resource under the absolute control of an entity that behaves in such an uncooperative fashion. The future of Niue, and especially the future of the young people on the Island, depends too heavily upon harnessing this critical resource for national development.

Rather than bowing to this neo-colonialism of the 21st century, Niue has sought to modify the current arrangement in order to: (a) clearly establish the rights and responsibilities of national sovereignty in regard to the ccTLD; (b) ensure its use is in conformity with public policy objectives; and (c) enhance the revenue generation from the use of a national asset. The matter could easily have been resolved if IUSN had cooperated from the outset. IUSN and NDL have resisted all efforts to resolve the matter amicably. As well as requests for information being ignored or denied, they have also waged a totally inappropriate public relations war and have attacked the members of the NITC, as well as the GON in general, in the press.¹ At times IUSN claims to own the name and all economic benefit from its use and, in a strange twist of logic, point to the phrase in RFC1591 – "*Concerns about "rights" and "ownership" of domains are inappropriate. It is appropriate to be concerned about "responsibilities" and "service" to the community.*" – to try and convince the GON that it does not have sovereign responsibility for the domain name.

Consequently, Niue took action that was intended to:

- seek redelegation of the registry to the NITC,
- formalize a contract with IUSN, or obtain a different operator for the registry via a procurement activity,
- establish a “mirror site” for its registry,
- establish a shared registry,
- separate the Registry functions from the Registrar functions, and
- authorize additional Registrars.

While no authorization was ever given to IUSN for additional registrars to be created, and certainly not to NDL, the GON communicated to NDL that it would recognize existing registrars under a grandfather clause. However, the existing registrars (including NDL) would need to sign a contract with the GON, in lieu of the contract they have with IUSN (or with NDL). If NDL prefers to keep those other registrars as part of its sales force rather than as separate registrars, that was deemed acceptable to the GON as long as all pertinent ICANN guidelines and Niuean laws are adhered to. Otherwise, any Registrar who does not sign a contract with the GON will not be allowed to enter names into the registry.

There are serious concerns over what appears to be less than an arm’s length relationship and what has been ceded to NDL without authority. For example, with respect to additional registrars, they state NDL created the necessary shared registry, not IUSN. It is vague as to who has signed up more than 40 additional registrars – IUSN or NDL. If it is NDL, then under what authority have they acted?

It is the intent of the NITC for its actions to result in a contract that is fair, firm, equitable, and enforceable - to replace the loose and inappropriate MOU. In its present form the MOU is neither acceptable nor enforceable. The contract will establish the rights and the responsibilities of the

registry manager, as well as providing them certainty against arbitrary Government action. Given the initial service provided by IUSN, the NITC was willing to consider that the initial fixed term contract could be assigned to IUSN and that IUSN would be able to bid on succeeding contracts, as would any other capable party.

Given IUSN's intransigence, ICANN has been requested to redelegate the registry to the NITC, which will then contract with a technically capable registry operator for the day-to-day management. The agreement will also establish guidelines for the representation of Niue's interests in international organizations or Internet governing bodies, such as the ITU, APNIC and ICANN. The contract would further stipulate that Niue has the right at any time to name other persons/entities to be Niue's representative(s).

GAC participation

Niue has participated in meetings of the Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN). In that forum Niue has worked closely with other countries in developing a set of best practices and principals to guide the relationship between a country and its registry manager and to delineate the responsibilities of the registry manager. In many regards Niue is representing not only its own concerns, but also those of other developing nations around the world. Niue has put a proposal to the to its Pacific Island neighbors (via the Forum Secretariat) to organize a future joint representation facilitated by Niue's continued attendance. The joint representation would be similar to the EU presence at the GAC.

Niue has based its redelegation efforts on the GAC principles. It is clear that if such a redelegation request is rejected, it could also be viewed as a rejection of the GAC principles. Niue is not willing to have the result of negotiation be a continuation of the status quo.

On-Island activities of IUSN

Many statements and press releases have been made by IUSN and NDL, regarding NITC, that have been inflammatory and destabilizing to the local political environment. IUSN has used the Administrative Contact's (Guest) local publication (Niue Economic Review) and his regional media contacts to attack the GON. Similarly, IUSN has frequently spammed the local Internet users concerning their anti-government sentiments. These activities are obviously inappropriate actions for the Registry Manager to undertake and do not represent serving the local community. In general, the NITC has refrained from comment or response given the GON's desire to have a non-confrontational and cooperative resolution.

Much of the history of the current dispute revolves around the issue of a return of fees representing 25% of gross domain name sales to Niue. Indeed, the original intention of the GON was to enter into a contract that ensured the actual return was both enforceable and verifiable. As part of the subterfuge put forth by IUSN and NDL under the management of Wm Semich, they have stated that

“Decisions on how to allocate the 25% share of revenue from .NU Domain name registrations which is set aside for Internet development, Health, Education and Library use in Niue, are made by a five-member Advisory Council in Niue, including professionals from the Education Department, Health Department, Library, University of the South Pacific, and Chamber of Commerce. Under the terms of its agreement with IUS-N, the Government of Niue also attends meetings of the Council as an observer, and for information exchange.”

Firstly, who does IUSN believe is the Government advisor? The Government has stated it has no official advisor associated with IUSN, and has not/does not attend any meetings. In fact, it is not informed of meetings. Individuals who participate in the advisory council state they are not consulted on any expenditure of funds. These advisors have filed affidavits clearly showing that

there is no real community involvement since the Council has no effective say in the allocation of funds. Indeed, reports suggest that the Advisory Council is merely a puppet organization dominated by Guest and St. Clair. It should be noted that meetings were held only after the NITC began requesting information from IUSN.

It is the strong belief of the GON, underwritten by local legislation, that the Government represents the voice of the community and should therefore be the entity that determines the developmental priorities for application of financial proceeds from a sovereign resource. Furthermore, the Council does not represent an open public organization, rather it is a hand picked body consisting primarily of parties sympathetic to IUSN through predominantly relational ties.

Secondly, the issue of a 25% return to Niue has never been subject to scrutiny via an open presentation of financial records. This is true both from the GON's perspective, as well as from the Council's. The treasurer, Mr. Guest, denies any real knowledge of the financial status of IUSN. Nevertheless, the definition employed by IUSN in relation to the 25% return constantly changes. Initially, it was a straight 25% of gross domain names sales revenue; then it became a voluntary contribution of 25% of net domain name sales revenue; and most recently it is 25% of the license fee (approximately US\$200,000) paid by NDL to IUSN. This fluidity in interpretation is one of the fundamental reasons why the GON requested the presentation of relevant material and the negotiation of a contract that would clearly define the roles and responsibilities of each party.

Redelegation request

Niue's ccTLD, .nu, is viewed as a sovereign national asset, as stated in national legislation, and should therefore be managed in conformity with national developmental priorities. Additionally, .nu's use also reflects upon the country and its citizens. In both these instances, the GON is the duly elected body that represents the interests of the community of Niue and is charged with the responsibility for the economic and social development of the country.

The GON's request for redelegation incorporates many issues based both on the concept of sovereignty, as well as in respect to the principles of RFC 1591. The documents provided to ICAN with the request for redelegation demonstrate the substance of IUSN's abuse of their position as domain name registry manager and their hostile actions towards the duly elected GON. With the exception of pornography issues, the marketing effort of the registrar NDL was generally viewed as acceptable. However, NDL is affectively acting as registry without GON approval and this is not acceptable, nor is the authorization of other registrars over whom the GON has no oversight or control.

2 2. BASIS FOR REDELEGATION REQUEST

2.1. 1.1 RFC 1591

2.1.1

1. Equitable, Just, Honest, Competent

IUSN service to the Local Community has not been suitable.

- A. Significantly interested parties agree they are not acting in best interest of community. Petitions have been presented from every Village, every Church and from virtually every Member of Parliament, on both sides of the aisle, calling for the re-delegation.
- B. More than just technical competence is at issue. Even if they remedy their breaches of RFC 1591, it is not sufficient. Actions of the last three years have destroyed almost any ability to work with them as registry manager. They have utilized their position to attempt

destabilizing the local situation to suit their own ends. They have made attacks on Government and individuals. They have refused to provide information required by Niuean law, stated they would never cooperate, never provide information, and never communicate until the domain was redelegated.

- C. Refusal to follow legal directives and laws of Niue. With Mr. Semich living in Boston, without the assistance of the United States Government, there is no effective lever that can be used to ensure compliance.
- D. As part of their attempt to portray the 'service to local community' they have falsely stated that they provide free Internet service and provide 25% of revenue to local community. This is false. The Government has been subsidizing the IUSN communications line as they refuse to honor the payments agreed to previously and are in arrears. They have used their position as ISP to spam the end-users with an uncompromising publicity campaign built on hostility towards the Government. The lack of security and the spottiness of service are such that the Government has begun steps to re-institute its own Internet connection for email service. Note that the Government must do so via a .com name as IUSN claims it owns gov.nu and will not relinquish it.
- E. Since they refuse to release any financial information, it is difficult to determine what 25 % means in real terms. IUSN signed an exclusive contract with the for-profit company owned by William Semich in Boston Massachusetts - Nu Domain Ltd. This is less than an arms length deal, and the date of the contract signing is questionable. However, this contract cedes economic rights that did not convey with the technical administration delegated by IANA. IUSN is limited to 25 % of revenues. The funds are only available to IUSN itself and not to the Government for IT infrastructure building or provision of services to the population. In fact, the funds go primarily to pay for the salaries of Guest and St Clair, sometimes at rates that exceed the salary of the Prime Minister. Not only have they not provided 25% to the community. IUSN would not set up a web page for the local high school although their cost would have been only \$50-60NZ per month. After NITC's request for re-delegation was filed, then IUSN began an effort to donate \$14,000 to the High School in an attempt to buy favor. Since 1997, they have failed to train even a few IT workers.
- F. Internet service was provided 1 hour per day until NITC began questioning their actions in general. IUSN then raised it to 2 hours per day to curry favor.
- G. The GON is even thwarted in properly establishing its own email service since IUSN registered gov.nu to itself. Beginning in 1998 the Government started making requests to have the technical and administrative contacts for the gov.nu transferred to its proper representatives. IUS-N has refused to do so, forcing the government to use a .com name for receipt of mail. They have also blocked access by the government to its own web pages and then attempt to use the lack of changes on the government page as proof that the government cannot manage its own Internet affairs.

2.1.2 1.1.2 Equitable Domain Assignments

- 2.1.2.1 Warehousing of, or speculation in, domain names by the registry. IUSN has hoarded many of the names that would be desirable from an island perspective, e.g.: niue.nu, niueislands.nu , whats.nu, etc.
- 2.1.2.2 Even worse is their insistence that they own 'gov.nu' and their refusal to return control of the gov.nu name to the GON. They have refused since 1998 to modify the technical and administrative contacts in the domain name record
- 2.1.2.3 In 2001, after 4 years of operation only 4 domain names had been registered to people or /businesses on island, while more than more than 60,000 had been registered to outsiders. Since that time, NDL has blocked efforts to ascertain the number of registrations to Niueans and to off-islanders.
- 2.1.2.4 So many restrictions are placed on the 'free service' that it is impossible for small local business to use it to develop e-commerce via the web. The rates for commercial service make it impractical for any local island business to participate.
- 2.1.2.5 Refusal to permit duly authorized and accredited registrars to participate in the Shared Registry system.

2.1.3 Undesirable Activity:

- 2.1.4 Pornography – Various international groups advised the Government of Niue that its domain name was being used extensively for pornography sites. There were so many .nu pornography sites that the .nu domain had obtained a reputation as a preferred domain name for pornography.
- 2.1.5 Child Pornography: NITC also received reports from a New Zealand agency to which NZ citizens have complained. It was determined that a search for young & sex leads to nu domain registration page. Upon further investigation they found multiple child pornography sites registered with the President and CEO of IUS-N and Nu Domain Ltd –J. Wm Semich as technical contact. The listing of J Wm Semich as the Technical contact is disturbing for either of two reasons. If he is knowingly the Technical Contact, that would be even more distressing to the island community than the situation already is. Alternatively, the manner in which the registry is being managed is such that NU Domain does no verification of the contact information nor of the DNS servers used. It is willfully and woefully so lax that anyone can register any name for any purpose. It is for reasons such as these that the Government must insist on oversight in the manner in which its domain name is being used.
- 2.1.6 NDL and Mr. Semich refused to discuss such sites with relevant Niuean and New Zealand government agencies that called with issues regarding such names.
- 2.1.7 Upon question and complaints, IUSN blocked access to the sites from the island so that it appeared the issue was resolved when in fact it was simply hidden from the local community while the activity continued.
- 2.1.8 **Political Agitation**
 - 2.1.8.1 Hacking of Government site by IUSN. After IUSN registered the gov.nu name to itself, it established a web page that ostensibly was for the Government to use to communicate to the citizens and the world. After the Government posted material unfavorable to IUSN, IUSN modified the page. IUSN – when told to cease and desist, IUSN said they thought it would be ok to do so. IUSN then discontinued

support of the government web site. They have password protected the Government web page site and refuse to disclose the password. This blocking, and their insistence they own gov.nu, have effectively cut the GON off from the use of the Internet to conduct official business and as a medium of communication with its own citizenry.

- 2.1.8.2 Spamming – using list of their customers to send out political statements and tirades about and against the Government.
- 2.1.8.3 The supposed Administrative Contact continually acted in a fashion designed to destabilize the Government. Attacks against the Government via the Internet were frequent and designed to have the most disruptive impact possible.

2.1.9 Threats

- 2.1.9.1.1 To Government – IUSN has stated it will take the ISP and registry away from the island and do registrations elsewhere still using .nu. Niue is told to capitulate or that it will receive nothing.
 - 2.1.9.1.1.1 To Local community – if NITC persists, they threaten to terminate the Internet connectivity to the community. The GON intends to create its own ISP to ensure on-going service and remove the IUSN ability to use Internet connectivity as a bludgeon.
 - 2.1.9.1.1.2 Personal Threats were made against Island representatives
 - (1) Richard Duncan (Economic Advisor)
 - (2) Toke Talagi (Minister of Telecommunications)

2.2. Advice to Government:

- 2.2.1.1.1.1 Richard St Clair- He was first a Peace Corps volunteer to Niue and then a consultant / advisor to the GON. There is a great question of Conflict of Interest and whether there was unethical behavior in his advice to the GON regarding arrangements that should be made regarding Mr. Semich and the domain name. After the GON took his advice, he immediately left the GON and went into partnership with Mr. Semich.
 - 2.2.1.1.1.2 When Government found its own independent advisor, Nu Domain complained and said only they should provide advice.
 - 2.2.1.1.1.3 For their pretend Advisory committee, the IUS-N appointed people in private citizen role, who also work for the Government. IUSN then claimed they have Government approval and oversight of action. The Government office named in the MOU was never informed of meetings nor invited in any manner to review their actions. Affidavits from the citizens involved make it clear that the one meeting held in 18 months was only to have a forum to attack the Government.
- 2.2.1.2 Stability of Internet (Sect 5)**
- 2.2.1.3 Use of alternate (Scandinavian) character sets and encoding schemes were producing problems for Scandinavian ISPs, who complained to ITU, Swedish

Government, and to NITC. IUSN and its affiliated company Nu Domain seemed more interested in pushing their commercial interest in a software package and not in Internet stability. Their use of encoding was in conflict with trials underway in Asia.

2.2.1.4 Refusal to discuss mirror sites and backup issues with NITC, “until redelegation occurs”.

3 3. Violation of National Law

3.1. 1.3 Telecommunications Act of 1998 and the Communications Amendment Act 2000.

3.1.1 IUS-N has steadfastly refused to comply with the laws of Niue and to follow the directives of the NITC, as required by the cited laws. They have done so willfully and spitefully.

3.1.2 Their non-compliance has made them subject to fines of \$1,000,000 USD. However, the fact that they are headquartered in the US and that ICANN controls the root servers makes it difficult for court actions to be enforced. The Government of Niue has requested that the US Department of Commerce take action against IUS-N, and its affiliate Nu Domain Ltd. The GON needs relief from the 21st Century colonialism to which Niue has been subjected, due to the actions of the Government of the US and its appointed representatives such as Jon Postel. Continuing lack of action by ICANN and its maintenance of a colonialism that is contrary to Niue’s sovereignty has placed great stress on the fabric of Niuean life and the fortunes of a small Pacific Island Nation.

3.2. 1.3 Anti-Pornography

i. Niue has existing laws against pornography and has concurred with International efforts to reduce the availability of such material. The utilization of its domain name as a pornography haven was seen as an insult to the local community. IUSN refused to apply any degree of responsibility for review of the names registered or does not understand technically how to do even a simple search through their own registry database. Neither is acceptable for the manager of a registry.

I. Administrative Contact within the country

- 3.2.1.1 a. The person named as Administrative contact, Mr. Stafford Guest, has denied that he has any involvement in the management of the ccTLD. He has denied that he has any authority or responsibility to communicate with the Government regarding the domain name. Although he is also Treasurer of IUSN, he has denied any knowledge of the financial affairs or status. This eliminates any possibility of meaningful dialogue with the supposed Administrative contact, in clear violation of the letter and spirit of RFC 1591.

Conclusion

Through the NITC, which is the appointed representative body of the GON, efforts have continued to attempt to bring the other parties to the discussion table. However, the GON no longer allows IUSN's refusal to talk, and their obstinate behavior, to delay the actions that must be taken to ensure that a Niuean national asset is properly delegated and managed. The day-to-day operation must be done under a contract that clearly establishes the roles and responsibilities of the operator. It will also be a contract that makes it clear that the ultimate authority rests with the government. Mr. Semich, the head of IUSN and NDL, has made it clear that the only contract he is willing to sign is one that gives him the Government of Niue's legal blessing to ignore ICANN regulations. When the GON stated unequivocally that it would not do so, negotiations ceased. Niue has been waiting almost three years for ICANN to take action on its request for redelegation.
