

13 February 2020

Gonzalo Camarillo
Chair, ISOC Board of Trustees

Dear Gonzalo,

I write to you in my role as Chair of the ICANN Board of Directors.

Since ISOC's 13 November 2019 announcement of the proposed sale of PIR to Ethos Capital, both of our organizations have been subject to significant scrutiny regarding the impact that the proposed transaction could have on the registrants and community served by the .ORG TLD.

I appreciate that this has been a challenging time for both of our organizations. ICANN is committed to giving PIR's "Notice of Indirect Change of Control and Entity Conversion" (referred to here as the "Request") the measured and appropriate level of review and due diligence required for such a proposed transaction. It is not often that such a contractual issue raises up to a Board-level concern, but as you might appreciate, PIR's request is one of the most unique that ICANN has received. Both the circumstances of how ISOC came to be responsible for the .ORG TLD, as well as the transaction as proposed by ISOC, have brought the spotlight to how ICANN considers PIR's request for change of control.

As you are likely aware, the circumstances and facts surrounding ISOC's arrangement with Ethos Capital have even brought a governmental inquiry on ICANN. As public interest driven organizations in the Internet ecosystem, ICANN needs ISOC's continued leadership in making sure that there are complete, truthful, clear facts available for those looking at the broader impacts of ISOC's proposed sale. It is in furtherance of our organizations' longstanding relationship that I reach out and seek additional information.

ICANN is repeatedly asked for information regarding the intent behind the proposed transaction and how the new ownership structure of PIR will continue to ensure and serve the unique purposes of the .ORG TLD. These questions include how ISOC will uphold the commitments it made in 2002 to operate .ORG that arose in part from the community-adopted selection criteria. These are the types of questions that we look to ISOC to help answer, as we at ICANN know that we cannot speak on your behalf. ISOC's answers will facilitate ICANN's review, as well as further the .ORG community's assessment of the impact of the proposed transaction on their organizations. ICANN is particularly interested in what

steps you took to ensure that the community that you serve in the public interest would be protected.

When ISOC applied for and was awarded the right to manage .ORG in 2002, ISOC made commitments to the Internet community on how it would differentiate and uphold the unique purpose of the .ORG TLD. ICANN awarded the management of the .ORG registry with the belief that ISOC was uniquely positioned to live up to these commitments for the long run. These commitments have been maintained since that 2002 award, and ICANN has heard loud and clear that the community of .ORG registrants is concerned that these commitments already have been abandoned or will be abandoned if the transfer to Ethos Capital is completed. ICANN has also heard concerns raised that the .ORG community was not consulted by ISOC as part of the ISOC's consideration of the proposed transaction.

To that end, we have worked to identify a set of questions, set forth below, that would give us a better understanding of certain fundamental issues related to the proposed structure. Your responses can help us to evaluate the request and bring additional transparency to this issue. Some of these questions are related to items that ICANN org posed to PIR as part of the change of control process; however, we believe that ISOC, acting in its public service role, is the appropriate party to respond. My request to you, for the benefit of the ICANN Community, is to provide answers that can be shared publicly and bring clarity to the circumstances surrounding ISOC's decision to sell PIR.

1. Since the .ORG TLD was awarded to ISOC in 2002, ISOC has appeared to support PIR's operation of the .ORG TLD in line with ISOC's 2002 commitments to the Internet community on how it would, among other things, differentiate the .ORG TLD, ensure responsiveness to the non-commercial community, and foster support from .ORG registrants (the "2002 Commitments"). Is it ISOC's view that these commitments will continue to be maintained with this new structure, and what, if anything, have you done to ensure that? Please explain, and reference supporting documentation where available. (See <https://archive.icann.org/en/tlds/org/applications/isoc/>)
2. There have been public statements that ISOC received multiple bids for the sale of PIR. Did ISOC solicit any responses from bidders as to how each would continue to uphold any/all of the 2002 Commitments?
 - If no, why not?

- If yes, what did ISOC request, and how were the responses evaluated and taken into account when entering into the proposed transaction with Ethos Capital?
3. What, if any, restrictions or conditions limit ISOC's ability to sell PIR? Are there any conditions or restrictions imposed by Pennsylvania law or other external sources that you are aware of, or that you have considered? Are there requirements for how the funds received from the sale of the non-profit entity of PIR must be reinvested?
 4. What has Ethos Capital committed to do in regard to the 2002 Commitments? And are such commitments included in any of the transaction documents, organization documents or elsewhere in a manner that insures they will be sustained and enforceable by .ORG registrants or others in the future?
 5. What assurances has Ethos Capital made that it will invest in differentiation of the .ORG TLD space, remain responsive to the needs, concerns, and views of the noncommercial Internet user community, and support open, transparent, and participatory process by which .org operating policies are initiated, reviewed, and revised in a manner that reflects the interests of .org domain name holders? How will these assurances be enforceable by .ORG registrants or others?
 6. What public interest commitments has Ethos Capital made and are such commitments included in any of the transaction documents, organizational documents or elsewhere in a manner that ensures they will be sustained and enforceable by .ORG registrants or others in the future?
 7. Did ISOC seek any inputs or comments from the registrants of .ORG or other interested stakeholders prior to engaging in a process to sell PIR, considering the terms of bids or evaluating bids for the sale of PIR? If so, please describe how this input was solicited and the outcomes.
 8. Did ISOC consult with the .ORG Advisory Council prior to engaging in a process to sell PIR? If so, please describe how this input was solicited and the outcomes.

9. We understand that ISOC might have consulted with the .ORG Advisory Council either as part of the consideration of terms of bids for the sale or PIR or for the evaluation of the proposed sale to Ethos Capital. Can you confirm if this happened, how the input was solicited, and the outcomes of that consultation? If ISOC proceeded counter to any .ORG Advisory Council recommendations, please provide the rationale for such action.
10. We understand that ISOC received a written proposal from Ethos Capital in September 2019. Were any prior proposals made or prior discussions had with Ethos Capital or any of their representatives or advisors? If yes, when did those discussions occur?
11. How is the proposed transaction with Ethos Capital intended to maximize the chances that .ORG serves registrants and the community now and in the future and ensure that .ORG is able to maintain and grow as a differentiated TLD?
12. Does ISOC believe the proposed sale to Ethos Capital (a for profit entity) is in the public interest and benefits registrants/.ORG community? If so, please describe how.
13. How will the .ORG registrants/community be served through the proposed endowment that ISOC will receive? Please describe how, in deciding to sell PIR to Ethos Capital, ISOC balanced the interests of the .ORG community with ISOC's interest in achieving a sizeable endowment to support ISOC's future operations separate from PIR and .ORG?
14. Did ISOC evaluate the financial structure of the proposed transaction in order to ensure that PIR will have the ability to operate the registry in a stable manner in the years to come and continue to support the interests of the .ORG community? To this end, has ISOC required any commitments from Ethos Capital to ensure that the level of debt service or anticipated capital distributions will not adversely impact the operation of the registry?
15. PIR has informed ICANN that the Connected Giving Foundation will be using the funds received in this proposed transaction "in furtherance of its mission to support an open, globally-connected, secure, and trust-worthy Internet". Can you confirm this statement from PIR? Can you also confirm that none of the

funds have been earmarked or are intended to be distributed to enrich any individual or entity (other than fees and expenses of advisors to the proposed transaction)?

16. Given the public reaction to the announced sale of PIR, will ISOC commit to completing any additional engagement with the .ORG community prior to consummating the proposed transaction with Ethos Capital?
17. Is there any other information you would like to share about how the sale of PIR to Ethos Capital would protect and serve the interests of the .ORG registrants and community?
18. Should ICANN understand from ISOC's announcement of the proposed transaction with Ethos Capital that, even if this proposed transaction were not to conclude, it remains ISOC's intention to divest itself of PIR and no longer have an ownership interest in a registry operator? In other words, has ISOC made a determination to no longer be involved in the .ORG registry, and if so, where was that decision made and on what basis did you decide to do so? Are there board minutes, a rationale or an economic analysis behind comments that have been made relating to this?

Thank you for your attention and cooperation in providing information and answers to our questions. If at all possible, please respond by 24 February 2020 to give ICANN an opportunity to review your responses in sufficient time to support ICANN's review.

Best regards,



Maarten Botterman
Chair, ICANN Board of Directors