



January 23, 2020

ICANN
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To:
Göran Marby, Chief Executive Officer
Maarten Botterman, Chair of the Board of Directors
Members of the Board of Directors
John Jeffrey, General Counsel

Dear ICANN Leadership and Members of the Board of Directors,

As noted in our letter to ICANN CEO Göran Marby on December 4, 2019, we believe that the sale of the nonprofit Public Interest Registry (PIR) to Ethos Capital demands close and careful scrutiny.

As the body that granted the dot org license to PIR and which must approve the sale, we believe that you, as Directors, need to play a particularly strong role in scrutinizing this process.

When you meet in Los Angeles over the coming days, we urge you to dig into the question of how the new PIR would steward and be accountable to the dot org ecosystem. We also encourage you to seriously consider the analysis and arguments being made by those who are proposing alternatives to the sale, including members of the Cooperative Corporation of .ORG Registrants.

As we've said before, there are high stakes behind this sale: public interest groups around the world rely on the dot org registrar to ensure free expression protections and affordable digital real estate. Should this reliance fail under future ownership, a key part of the public interest internet infrastructure would be diminished -- and so would the important offline work it fuels.

Late last year, we asked ISOC, PIR and Ethos to answer a series of questions about how the dot org ecosystem would be protected if the sale went through. They responded and we appreciate their engagement, but key questions remain unanswered.

In particular, the responses from Ethos and ISOC proposed a PIR stewardship council made up of representatives from the dot org community. However, no details about the structure, role or powers of this council have been shared publicly. Similarly, Ethos has promised to change PIR's corporate structure to reinforce its public benefit orientation, but provided few details.

Ambiguous promises are not nearly enough given the stakes. A crystal-clear stewardship charter -- and a chance to discuss and debate its contents -- are needed before ICANN even begins to consider approving this sale.



One can imagine a charter that provides the council with broad scope, meaningful independence, and practical authority to ensure PIR continues to serve the public benefit. One that guarantees Ethos and PIR will keep their promises regarding price increases, and steer any additional revenue from higher prices back into the dot org ecosystem. One that enshrines quality service and strong safeguards for all dot orgs. And one that helps ensure these protections are durable, accounting for the possibility of a future resale.

As ICANN board members, we urge you to discuss and agree upon a set of criteria that would need to be satisfied before approving the sale. First and foremost, this list should include a stewardship charter of this nature, a B corp registration with publicly posted charter, and a public process of feedback related to both. These things should be in place before ICANN considers approving the sale, so independent groups can provide scrutiny.

We also encourage you to consider whether alternatives to the current sale should be considered, including an open call for bidders. Internet stalwarts like Wikimedia, experts like Marietje Schaake and dozens of important non-profits have proposed other options, including the creation of a [co-op](#) of dot orgs. In a [Washington Post op-ed](#), former ICANN chair Esther Dyson argues that such a co-op would “[keep] dot-org safe, secure and free of any motivation to profit off its users’ data or to upsell them pricy add-ons.”

Thank you in advance for your serious consideration of this matter. We are also happy to offer help and support in this matter if you would find it useful.

Sincerely,

A handwritten signature in black ink, appearing to be "Mark Surman", written over a light blue horizontal line.

Mark Surman
Executive Director, Mozilla

PS. We have written a number of blog posts on this matter. We included them below as additional context. They should be treated as part and parcel of this letter.

Questions About .org

<https://blog.mozilla.org/blog/2019/12/03/questions-about-org/>

Mark Surman December 3, 2019

Last month, the [Internet Society](#) (ISOC) announced plans to sell the [Public Interest Registry](#) (PIR) — the organization that manages all the dot org domain names in the world — to a private equity firm named [Ethos](#). This caught the attention of Mozilla and other public benefit orgs.

Many have called for the deal to be stopped. It's not clear that this kind of sale is inherently bad. It is possible that with the right safeguards a private company could act as a good steward of the dot org ecosystem. However, it is clear that the stakes are high — and that anyone with the power to do so should urgently step in to slow things down and ask some hard questions.

For example: Is this deal a good thing for orgs that use these domains? Is it structured to ensure that dot org will retain its unique character as a home for non-commercial organizations online? What accountability measures will be put in place?

[In a letter to ISOC, the EFF and others summarize why the stakes are high](#). Whoever runs the dot org registry has the power to: set (and raise) prices; define rights protection rules; and suspend or take down domains that are unlawful, a standard that varies widely from jurisdiction to jurisdiction. It is critical that whoever runs the dot org registry is a reliable steward who can be held accountable for exercising these powers fairly and effectively.

ISOC and Ethos put up a site last week called [keypointsabout.org](#) which argues that the newly privatized PIR will be just such a steward. Measures outlined on the site include the creation of a stewardship council, price caps, and the incorporation of the new PIR as a B Corp. These sound like good plans at first read, but they need much more scrutiny and detail given what is at stake.

ICANN and the ISOC board are both in a position to slow things down and offer greater scrutiny and public transparency. We urge them to step back and provide public answers to questions of interest to the public and the millions of orgs that have made dot org their home online for the last 15 years. Specific questions should include:

1. Are the stewardship measures proposed for the new PIR sufficient to protect the interests of the dot org community? What is missing?
2. What level of scope, authority and independence will the proposed Stewardship Council possess? Will dot org stakeholders have opportunities to weigh in on the selection of the Council and development of its bylaws and its relationship to PIR and Ethos?
3. What assurances can the dot org community have that Ethos and PIR will keep their promises regarding price increases? Will there be any remedy if these promises are not kept?
4. What mechanisms does PIR currently have in place to implement measures to protect free speech and other rights of domain holders under its revised contract, and will those mechanisms change in any way

with the transfer of ownership and control? In particular, how will PIR handle requests from government actors?

5. When is the planned incorporation of PIR as a B corp? Are there any repercussions for Ethos and/or PIR if this incorporation does not take place?
6. What guarantees are in place to retain the unique character of the dot org as a home for non-commercial organizations, one of the important stewardship promises made by PIR when it was granted the registry?
7. Did ISOC receive multiple bids for PIR? If yes, what criteria in addition to price were used to review the bids? Were the [ICANN criteria originally applied to dot org bidders in 2002](#) considered? If no, would ISOC consider other bids should the current proposal be rejected?
8. How long has Ethos committed to stay invested in PIR? Are there measures in place to ensure continued commitment to the answers above in the event of a resale?
9. What changes to ICANN's agreement with PIR should be made to ensure that dot org is maintained in a manner that serves the public interest, and that ICANN has recourse to act swiftly if it is not?

In terms of process, ICANN needs to approve or reject the transfer of control over the dot org contract. And, presumably, the ISOC board has the power to go back and ask further questions about the deal before it is finalized. We urge these groups to step up to ask questions like the ones above — and not finalize the deal until they and a broad cross section of the dot org community are satisfied with the answers. As they address these questions, we urge them to post their answers publicly.

Also, the state attorneys general of the relevant jurisdictions may be in a position to ask questions about the conversion of PIR into a for profit or about whether ISOC's sale of PIR represents fair market value. If they feel these questions are in their purview, we urge them to share the results of their findings publicly.

One of [Mozilla's principles](#) is the idea that “a balance between commercial profit and public benefit is critical” to maintaining a healthy internet. Yes, much of the internet is and should be commercial — but it is important that significant parts of the internet also remain dedicated to the public interest. The current dot org ecosystem is clearly one of these parts.

The organization that maintains the underpinnings of this ecosystem needs to be a fair and responsible steward. One way to ensure this is to entrust this role to a publicly accountable non-profit, as ICANN did when it picked ISOC as a steward in 2002. While it's also possible that a for-profit company could effectively play this stewardship role, extra steps would need to be taken to ensure that the company is accountable to dot org stakeholders and not just investors, now and for the long run. It is urgent that we take such steps if the sale of PIR is to go through.

A small postscript: We have [sent a letter](#) to ICANN encouraging them to ask the questions above.

More Questions About .org

<https://blog.mozilla.org/blog/2019/12/19/more-questions-about-org/>

Mark Surman December 19, 2019

A couple of weeks ago, [I posted a set of questions](#) about the Internet Society's [plan to sell the non-profit Public Interest Registry \(PIR\) to Ethos capital](#) here on the Mozilla blog.

As the EFF [recently explained](#), the stakes of who runs PIR are high. PIR manages all of the dot org domain names in the world. It is the steward responsible for ensuring millions of public interest orgs have domain names with reliable uptime and freedom from censorship.

The importance of good dot org stewardship spurred not only Mozilla but also groups like [EFF](#), [Packet Clearing House](#) and [ICANN](#) itself to raise serious questions about the sale.

As I noted in our original post, a private entity managing the dot org registry isn't an inherently bad thing — but the bar for it being a good thing is pretty high. Strong rights protections, price controls and accountability mechanisms would need to be in place for a privately run PIR to be trusted by the dot org community. Aimed at the Internet Society, Ethos and ICANN, [our questions](#) focused on these topics, as well as the bidding process around the sale.

On Monday, [Ethos CEO Erik Brooks published a blog post](#) replying to Mozilla's questions. The public response is appreciated — an open conversation means more oversight and more public engagement.

However, there are still critical questions about accountability and the bidding process that have yet to be answered before we can say whether this sale is good or bad for public interest organizations. These questions include:

1. For the Internet Society: what criteria, in addition to price, were used to review the bids for the purchase of PIR? Were the [ICANN criteria originally applied to dot org bidders in 2002](#) considered? We realize that ISOC may not be able to disclose the specific bidders, but it's well within reason to disclose the criteria that guided those bidders.
2. For Ethos: will accountability mechanisms such as the Stewardship Council and the incorporation of PIR as a public benefit corporation be in place before the sale closes? And, will outside parties be able to provide feedback on the charters for the B-corp before they are finalized? Both are essential if the mechanisms are going to be credible.
3. Finally, and possibly most importantly, for ICANN: will you put a new PIR contract in place as a condition of approving the deal? If so, will it provide robust oversight and accountability measures related to service quality and censorship issues?

We need much more information — and action — about this deal before it goes ahead. It is essential that Ethos and the Internet Society not close the PIR deal — and that ICANN does not approve the deal — until there are clear, strong provisions in place that protect service quality, prevent censorship and satisfy the dot org community.



As I wrote in my [previous blog](#), Mozilla understands that a balance between commercial profit and public benefit is critical to a healthy internet. Much of the internet is and should be commercial. But significant parts of the internet — like the dot org ecosystem — must remain dedicated to the public interest.