



30 January 2020

VIA EMAIL AND US MAIL

Jon Nevett
President and CEO
Public Interest Registry
1775 Wiehle Avenue, Suite 100
Reston, VA 20190

Re: PIR – Notice of Indirect Change of Control and Entity Conversion (the “Notice”)

Dear Jon,

I am attaching a letter from the California Attorney General, dated 23 January 2020 (the “AG Letter”). The AG Letter states, among other things, that the Attorney General is analyzing “the impact to the nonprofit community, including to ICANN, of this proposed transfer” of PIR to Ethos Capital. ICANN is posting the AG Letter on its website today, along with a copy of this letter.

The AG Letter seeks an extensive number of documents and other information from ICANN, including correspondence between PIR and/or ISOC, on the one hand, and ICANN, on the other. The AG Letter also seeks all correspondence between ICANN and Ethos regarding the proposed transaction. Pursuant to Section 7.15 of the .ORG Registry Agreement and the other registry agreements listed in the Notice, each between ICANN and PIR (collectively, the “Registry Agreements”), ICANN is not permitted to disclose any information previously designated as confidential by PIR, unless (among other things) the disclosure is made in response to a valid order of a court of competent jurisdiction or, if in the reasonable opinion of ICANN’s legal counsel, such disclosure is otherwise required by applicable law.

The Attorney General has argued, in previous situations, that its letters are the equivalent of a subpoena pursuant to California Government Code Section 12589. Accordingly, pursuant to Section 7.15(c) of the Registry Agreements, ICANN hereby provides PIR with notice of the AG Letter and ICANN’s intent to disclose PIR’s confidential information pursuant thereto. ICANN intends to begin providing responses (including confidential information of PIR) to the AG Letter at 5:00 p.m. on Thursday, February 6. Please let me know no later than 3 February 2020 whether PIR consents to the disclosure.

In addition, the Attorney General has now requested additional time to review the situation. At present, ICANN has until 17 February 2020 to respond to the request to approve the change of control. ICANN hereby requests that this deadline be extended to 20 April 2020. Know that ICANN is continuing its diligence process (as discussed in the 17 January 2020 letter) and will do so during any extension as well. Please let us know by 3 February 2020 whether you will agree to this request.

Thank you for your cooperation.

Sincerely,



John O. Jeffrey
General Counsel & Secretary, ICANN

cc: Brian Cimboric, Vice President and General Counsel, PIR



XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE

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January 23, 2020

Board of Directors
ICANN
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-9536
board@icann.org

RE: In the Investigation of the Proposed Sale of PIR to Ethos Capital.
Matter ID: LA2020500139

Dear Gentilepersons:

The Office of the Attorney General has the duty to supervise charitable organizations under California Corporations Code section 5250, and Government Code sections 12580 through 12599.8. The Internet Corporation for Assigned Names and Numbers (ICANN), as a registered nonprofit in California, is subject to regulation by the California Attorney General. It is our understanding that ICANN is in the process of reviewing for approval the proposed transfer of Public Interest Registry (PIR), a Pennsylvania nonprofit corporation, to Ethos Capital, a for-profit corporation.

In order for the Attorney General to analyze the impact to the nonprofit community, including to ICANN, of this proposed transfer, we are requesting that you provide the following documents and respond to the following questions. Due to the urgency of the matter, please provide your response no later than 15 calendar days from the receipt of this correspondence.

If a document to be produced exists in electronic format, you must produce it in native electronic format (i.e., any Outlook e-mail messages must be provided in Outlook .pst and/or server files; Excel spreadsheets should be produced in Excel .xlsx files; and Word documents in Word .doc or .docx files), except for accounting software such as QuickBooks Pro or Peachtree that must be produced in Excel .xlsx files, regardless of whether hard copies exist. If paper printouts of electronic documents contain unique information not present in the electronic format (such as a printed email with handwriting, signatures, marginalia, drawings, annotations, highlighting and redactions), you must produce the paper printout.

1. All Registry Agreements entered into by ICANN and PIR (and/or Internet Society (ISOC)), including any amendments, extensions, or other documents regarding the agreements;

2. Any and all Notices of Indirect Change or Control and Entity Conversion from PIR and/or ISOC to ICANN. This request includes all prior notices, whether these were acted on or not;
3. All correspondence, including emails, between PIR and/or ISOC and ICANN regarding the proposed acquisition of PIR by Ethos Capital;
4. All correspondence, including email correspondence, between ICANN and Ethos Capital regarding the proposed acquisition of PIR by Ethos Capital;
5. PIR's unredacted response to ICANN's request for additional information regarding the acquisition of PIR by Ethos Capital;
6. Describe in detail the authority ICANN has to enter into registration and/or licensing agreements for issuing top level domains;
7. Produce all documents regarding the criteria used by ICANN to enter into a Registry Agreement with PIR;
8. Produce all documents that relate to ICANN's authority to enter into registration and/or licensing agreements for issuing top level domains;
9. All documents which relate or refer to ICANN's authority over top level domains (TLDs);
10. Describe in detail the authority ICANN has to regulate, license, and/oversee the domain name system;
11. Does ICANN manage any of the TLDs? If yes, provide a list of these TLDs.
12. Minutes of the proceedings of corporate members, board of directors, board committees, and any board resolutions regarding PIR and/or ISOC. This request includes any information provided to board members by ICANN;
13. Describe in detail the process that ICANN applies in evaluating the transfer or assignment of Registry Agreements;
14. All documents which refer to the process and criteria that ICANN applies in evaluating transfer or assignment of Registry Agreements;
15. Has ICANN approved the transfer or assignment of any Registry Agreement from a nonprofit entity to a for-profit? If yes, identify the agreement, the date, and the parties to the agreement;
16. Did ICANN ever conduct or review any analysis of the monetary value of the .org Registry Agreement? If yes, provide all documents regarding such analysis;
17. When does ICANN expect to make a determination whether it will approve or deny the request from PIR to assign the Registry Agreement to Ethos Capital?
18. Provide an explanation of ICANN's authority to regulate the registration fees charged for .org domains;
19. Provide a history of the registration fees imposed by ICANN and/or PIR to register .org domains;
20. How are registration fees for the .org domain determined?
21. Who is involved in setting the registration fees for .org domains?
22. If the sale of PIR to Ethos is approved, what role will ICANN have to set or approve registration fees for .org domains?
23. Did ICANN approve a removal of the price cap for registration fees for .org domains?

24. If ICANN approved the removal of the price cap for registration fees for .org domains, provide a detailed explanation how this occurred, including when and who initiated the process to remove the price caps and how it was ultimately approved;
25. All correspondence between ICANN, ISOC, PIR, and/or Ethos Capital regarding the removal of the price cap for registration fees for .org domains;
26. Was the removal of the price cap for registration fees for .org domains requested by PIR and/or ISOC? If yes, provide all documents regarding the request for the removal of the price cap;
27. Identify all individuals at ICANN involved in analyzing and/or making recommendations regarding the removal of the price cap for .org domains;
28. What role does ICANN have in setting registration fees for the .org domains?
29. Who at ICANN is responsible for setting or approving registration fees for TLDs?
30. Who at ICANN is responsible for setting or approving registration fees for .org domains?
31. In addition to PIR, who else has ICANN contracted with to provide registry services for .org domains? Identify the time periods for all agreements and the reason these were terminated;
32. In removing the price cap for .org domains, did ICANN provide any restrictions and/or limitations as to any fee increases to register .org domains?
33. Provide all documents provided to ICANN's Board of Directors regarding removal of the price cap for .org domains;
34. Provide the names and contact information of all of ICANN's members of its Board of Directors, including all non-voting members;
35. Your conflict of interest policy.

Instructions for your response:

1. Indicate the request number each document or information is responsive to.
2. The integrity of this investigation relies on the preservation of the requested documents and information in your possession or control. Hence, ensure the preservation of this information until the final resolution of this investigation.
3. All requests are continuing in nature. Accordingly, supplement your production of documents and information and amend the production if you discover prior submissions are incorrect or incomplete.
4. If you do not understand the request, please ask for a clarification.
5. Upon review, additional documents and information may be requested. Also note that the failure to produce requested records can lead to the suspension or revocation of registration, the issuance of cease and desist orders, and the assessment of penalties. (Government Code sections 12591.1, subdivisions (b)-(c), 12598 subdivision (e)(1); California Code of Regulations, title 11, §§ 314, subdivision (a), 315, 999.9, subdivision (f).)

January 23, 2020

Page 4

If you have any questions, please feel free to contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Sandra Barrientos". The signature is fluid and cursive, with the first name "Sandra" and last name "Barrientos" clearly distinguishable.

SANDRA I. BARRIENTOS
Deputy Attorney General

For XAVIER BECERRA
Attorney General

SIB:

LA2020500139