

Congress of the United States

Washington, DC 20510

December 23, 2019

Mr. Andrew Sullivan
President and CEO
Internet Society (ISOC)
11710 Plaza America Drive, Suite 400
Reston, VA 20190

Mr. Jonathan Nevelt
President and CEO
Public Interest Registry (PIR)
1775 Wiehle Avenue, Suite 100
Reston, VA 20190

Mr. Erik Brooks
Founder and CEO
Ethos Capital
111 S. State Street
Newtown, PA 18940

Dear Mr. Sullivan, Mr. Nevelt and Mr. Brooks:

We write to urge you to put the interests of the nonprofit community first as you consider the future of .ORG internet domain names and the possible sale of the .ORG registry to a private equity firm.

Since 2002, the Internet Society (ISOC) has been entrusted with managing .ORG, the top-level domain that is widely used by nonprofit organizations in the United States. In return for its stewardship of .ORG, ISOC has generated tens of millions of dollars per year in profits through domain registration fees. On November 13, 2019, ISOC announced that it had agreed to sell control of .ORG and the Public Interest Registry (PIR) that directly manages it for more than \$1 billion dollars to Ethos Capital.

While the reaction to the sale among internet users and nonprofit organizations has been resoundingly negative — over 18,000 individuals and 500 organizations have signed a letter protesting the sale — it has been largely presented as a done deal by ISOC that will be formally approved in January by the Internet Corporation for Assigned Names and Numbers (ICANN). The nonprofits that have long made .ORG their digital home were not consulted by ISOC in advance, nor do they have any say in the decision to accept Ethos Capital's offer. If they disagree with ISOC's decision to sell .ORG to Ethos Capital, their only option is to move to a different domain, a move that can be quite costly for most organizations.

.ORG is not just another domain, and it is not just a digital asset that can be sold to the highest bidder. As PIR itself notes on its website, a .ORG domain “can serve as a powerful signal that your site serves a greater good — rather than just a bottom line.” Control over .ORG must therefore serve the public interest. The registry that controls .ORG must provide reliable and affordable domain services to nonprofits. It must protect the free-speech rights of all users, even for those with unpopular viewpoints that governments or corporations may not like. At the same time, it must protect internet users from phishing, malware and denial-of-service attacks.

The nonprofit community is understandably concerned about whether Ethos Capital, a private equity firm that has existed for less than six months, will act as a responsible steward over this core component of internet infrastructure. Thanks to recent changes in ICANN’s .ORG registry agreement, Ethos Capital will have the ability to take down entire domains in response to claims of trademark infringement, and to raise prices for .ORG domains as it sees fit. Moreover, while Ethos Capital and PIR have made a number of promises intended to address public interest concerns, such as “keeping .ORG accessible and reasonably priced,” establishing a stewardship council and launching a community enablement fund, their implementation details remain unspecified, making it unclear how effective these commitments will be in ensuring accountable stewardship of .ORG.

As you know, ICANN has a few weeks to accept or reject the sale of PIR. On December 9, ICANN submitted a series of questions to PIR, but there is no requirement that the answers to these questions be made public. In order to assure the American people that this sale of the .ORG registry genuinely serves the public interest, please provide us with answers to the following questions by January 6, 2020:

1. Will you disclose the content of your registry transfer request to ICANN and any filings with Pennsylvania courts or other government authorities? Will PIR make its articles of incorporation and bylaws public?
2. On December 9, ICANN requested additional information from PIR. Will you commit to publishing your answers to any information requests by ICANN? If there is information in your answers that you will not publish, please explain why.
3. How will each of you ensure that any price increases for .ORG domains are reasonable and reviewed by the nonprofit community the registry serves? What steps will you be taking to formalize these processes, and otherwise clearly indicate to the public and to .ORG registrants that Ethos Capital, and any subsequent buyers of .ORG, will be expected to continue involving the nonprofit community in the stewardship of .ORG?
4. In 2002, ISOC and PIR were entrusted by ICANN with the operation of the .ORG registry because they met the requirement that “policies and practices should strive to be responsive to and supportive of the noncommercial Internet user

- community.” How does the sale of .ORG to Ethos Capital ensure that this commitment continues to be met?
5. How will you protect the content neutrality of the registry, both while it is managed by Ethos Capital and after any subsequent sale of the registry?
 6. In the wake of public criticism of this deal, PIR created a new website on which it responded to critics, keypointsabout.org. There, you state that PIR and Ethos Capital will create a stewardship council “that will serve to uphold PIR’s core founding values,” but do not describe its responsibilities, authority, or membership.
 - a. How will you formalize the council’s bylaws and how can the nonprofit community be assured that they are enforceable?
 - b. How will you guarantee that this stewardship council will be independent and community-driven?
 - c. Will the members of the council be selected by PIR, by the council itself, through designated organizations or by some other mechanism?
 - d. Will domain registrants be able to appeal any domain take-down decisions to the council?
 - e. What authority will the council have to review or veto price increases, changes in service providers critical to the reliability of the .ORG domain or other major registry policy changes?
 - f. Will the stewardship council be able to replace the leadership of PIR if it makes a determination that it does not serve the interests of the nonprofit community?
 - g. How will you ensure that the council is indeed truly independent and has the appropriate authority and resources?
 - h. How will you make it difficult for Ethos Capital or a future registry owner to ignore or disband this council?
 7. Will ISOC and PIR provide the nonprofit community with the ability to comment on proposed and final bylaws, stewardship council responsibilities and structure, and other relevant governance matters? If so, how?
 8. What specific processes do you commit to implement to ensure that .ORG domain take-downs are only used to stop phishing, malware, and denial-of-service attacks, to remove child sexual abuse material or to have otherwise been ordered by a court in the United States and are not used to suppress lawful content that foreign governments or the new registry owners do not like?
 - a. Will these commitments extend to Cyrillic and Chinese-simplified generic TLDs managed by PIR?

9. PIR is currently incorporated in Pennsylvania. As such, PIR has informed Senator Wyden's office that it only responds to domain take-down orders issued by courts in the United States. Will the new for-profit PIR remain incorporated in Pennsylvania? What assurances can you provide that Ethos Capital or any subsequent buyer of the .ORG registry will not relocate its place of incorporation to a foreign country with a history of suppressing speech or violating human rights?

Thank you for your attention to this important matter.

Sincerely,


Ron Wyden
United States Senator


Elizabeth Warren
United States Senator


Richard Blumenthal
United States Senator


Anna G. Eshoo
United States Representative