



19 February 2020

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

RE: Request for Additional Information

Dear Jon:

In a letter dated 20 December 2019, Public Interest Registry ("PIR") responded to ICANN's request for certain additional information related to PIR's "Notice for an Indirect Change of Control and Entity Conversion" resulting from the proposed acquisition of PIR (the "Transaction").

Thank you for the information provided and PIR's continued desire to act in the spirit of cooperation so that ICANN has a full understanding of the Transaction.

ICANN has additional requests and/or questions related to PIR's response to the initial request. Please see Attachment A. In light of your failure to extend the timeline to a date beyond 29 February 2020, please respond or as soon as possible to allow us the time to review your responses. We still believe that in light of these requests and the California Attorney General's questions an extension to 20 April 2020 is warranted.

ICANN would like to publish this letter with Attachment A on Friday, 21 February 2020. If you believe that anything in this additional request is confidential, please let us know before 4pm, Pacific and if there are redactions, provide us with a redacted version of Attachment A for publication.

Respectfully,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

John Jeffrey
General Counsel and Secretary

Cc: Brian Cimboric, Vice President and General Counsel, PIR
Russ Weinstein, Senior Director, gTLD Accounts & Services, ICANN

ATTACHMENT A

PROPOSED OWNERSHIP STRUCTURE AND INDIVIDUALS

1. Questions 2.2 and 3 from Initial Request:

ICANN's initial request asked for information on all entities and individuals that will have any indirect or direct ownership/control over the registry operator as well as all affiliates of such entities. The information should include percentage of ownership. In addition, for each such entity or individual, ICANN requested additional information, including ownership.

"Affiliate" and "Control" are both defined in Section 2.9(c) of the PIR Registry Agreements. Control is not limited to percentage of share ownership and includes control through serving as a member of a board, by contract, credit arrangement or otherwise.

From the information provided, it appears that a number of entities/individuals may have a "control" relationship post-transaction or otherwise have minority interests with the right to appoint two individuals to the Board of Managers of Purpose Domains Investments, LLC (and each of its subsidiaries, including PIR). The post-transaction organizational chart provided as Attachment 3 includes references to these minority investors.

Please provide the identity of the minority investors and a representation with respect to each minority investor regarding whether such investor has the ability to exercise control over PIR. Please provide the information previously requested (in this question and in others) for all entities with control over PIR.

Please also provide information relating to Affiliates as originally requested and specific percentage of ownership figures rather than simply greater or lesser than 50%.

2. Question 3 from the Initial Request:

ICANN requested certain information regarding the directors and officers of the post-transaction entities (and Affiliates). PIR has provided information with respect to four individuals who will serve on the Board of Managers of Purpose Domains Investments LLC.

- There are five seats on that Board of Managers. Please identify the fifth director.
- Please confirm that each of the subsidiaries of Purpose Domains Investments LLC will have its own Board of Managers that will be made up of the same individuals listed as the Board of Managers for Purpose Domains Investments LLC.
- Please confirm if the Board of Managers for the subsidiaries of Purpose Domains Investment LLC will have the identical voting rules/rights as those described for Purpose Domains Investment LLC.

Please also provide the requested information, if any, on the directors/officers of all other entities above Purpose Domain Investments LLC and any other "control" entities.

3. Question 4 and 5 from the Initial Request:

ICANN requested certain information and requested that certain questions be answered for entities and individuals listed in the post-transaction chart. Please confirm that responses already provided pertain to each entity and individual set forth in the "Purpose Domains Control Structure Chart (Post-Closing)" provided in Attachment 3, including the minority investors. Please supplement the information where necessary. Please provide the LLC Agreement and other organizational documents for each entity.

TRANSACTION DOCUMENTS AND INFORMATION

4. Question 7 from the Initial Request:

PIR's response indicated that Ethos Capital submitted a proposal to acquire PIR in September 2019. The Attachment 1 letter states that ISOC and PIR received a proposal from Ethos Capital in September 2019. PIR's response did not indicate whether any prior proposals were made or whether any prior discussions occurred. Did PIR inquire of either Ethos Capital or ISOC whether Ethos Capital (or any of its affiliates or representatives) approached ISOC concerning a transaction prior to submitting the proposal in September 2019? If not, please inquire and provide information relating to the date and substance of any such prior communication. If inquiry was made, please confirm that no such prior communications occurred, and that the September 2019 proposal by Ethos Capital was the first proposal or communication received by ISOC and/or PIR concerning Ethos Capital's interest in acquiring PIR.

5. Question 9 from the Initial Request:

Please confirm that all funds to be received by Connected Giving Foundation will be held for the purposes discussed in PIR's response and that no such 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 transaction).

ICANN requested information on how the proposed transaction will be funded and how that will affect the financial state of PIR. PIR provided certain information regarding a term loan facility of \$360M, but no information concerning the equity financing commitments referenced in the EPA.

With respect to the term loan, PIR is a guarantor of the credit facility subscribed by its parent. What are the terms of this credit facility and of the guarantee that PIR LLC will provide?

Please provide information concerning the structure and terms of the equity financing. In addition, please describe Ethos Capital's (and other control entities) intent as it relates to capital distribution from PIR following the closing, and whether any of the organization documents of Purpose Domains Investments, LLC (and affiliates) contain any restrictions on such distributions (if so, please describe).

Please provide information regarding what commitments Ethos Capital has made to fund PIR's operations on an ongoing basis. Please include whether any such commitments are set forth in any transaction documents or elsewhere.

In addition, the responses indicate PIR's belief that Ethos Capital will be a responsible owner and fully intends to support the public interest and the .ORG community. However, none of the materials discuss or disclose Ethos Capital's investment intent as it relates to its exit strategy for the investment. Please disclose.

PIR states that the "structure of the transaction is expected to result in significant tax deductions, and PIR is expected to generate taxable losses that should offset net taxable income for the next several years." Please provide information that explains how the "structure of the transaction" will generate such losses.

6. Question 11 from the Initial Request:

ICANN requested copies of all documents and information provided to the Pennsylvania Attorney General. PIR's response included, as Attachment 1, a letter to the Pennsylvania AG from PIR's counsel but it excluded all exhibits. Please provide the exhibits to Attachment 1 (which were not otherwise provided elsewhere) and/or other information sent to the Pennsylvania AG as requested or provide a justification for not providing these documents.

7. Question 12 from the Initial Request:

One of the post-closing organizational documents provided at Attachment 8 is the draft LLC Agreement for PIR LLC when Connected Giving Foundation will be the sole member. Please confirm if the same form of LLC Agreement will be used when Purpose Domains Direct LLC becomes the sole member of PIR. If not, please provide the LLC Agreement to be implemented post-closing.

FINANCIAL QUESTIONS

8. Questions 13 and 18 from the Initial Request:

PIR provided 2018 audited financials but did not provide financial information for the post-transaction beneficial owner of PIR as requested. PIR has also made a number of general statements about its anticipated financial performance post-transaction. We make the following inquiries and requests:

- PIR is currently a 501(c)(3) charitable corporation. What are the tax impacts of the conversion of PIR from a nonprofit corporation to an LLC and what are the financial implications of such tax impacts?
- Please provide the anticipated financial impacts of the transaction (at the date of closing of the transaction) for PIR's parent entities and for PIR LLC, and "post-transaction" pro-forma financial statements for PIR LLC, including cash flow statements, for each of the years one through five, and for years six through ten in the aggregate. Any financial expense, of any nature, whether debt and/or equity service or otherwise, should be separately displayed. Any tax expense should also be separately displayed.

THE .ORG COMMUNITY

9. Questions 20 and 21 from the Initial Request:

The Stewardship Council:

- What documents will authorize or empower the Stewardship Council? What authority will this Council have? Please provide more detail on its role and authority and any documentation to support this.
- What is the role of public comment or other community input on the role of the Stewardship Council, its members and its decisions?
- What will be included in the charter of the Stewardship Council? How will community input be sought on such charter?
- What are the criteria for membership on the Stewardship Council? Will Council members be compensated or have expenses reimbursed? Will there be a conflict of interest policy for members?
- Has PIR or Ethos (or their representatives or agents) approached anyone to date to be a member of the Stewardship Council?

The Advisory Council:

- How is the Stewardship Council different from the Advisory Council and what is the authority of the Advisory Council? Or does the Stewardship Council replace the Advisory Council? Please provide information of the role of the Advisory Council and any documentation to support this.
- Did PIR or ISOC consult with the Advisory Council about the proposed sale of PIR to Ethos Capital or any other party? If so, please provide information on how the input was solicited and the outcome of that consultation (e.g. was a recommendation made by the Advisory Council)?
- If a recommendation or other input was provided by the Advisory Council, did the PIR Board act consistently with such recommendation/input or against such recommendation/input?

Public Benefit Corporation Status:

- Please provide more information on the assertion that PIR will be “anchored in a Public Benefit LLC”. Will this be a legal entity or a public benefit certification? What commitments will be part of the public benefit status?
- Will any public benefit commitments, principles and/or requirements be set forth in any of PIR’s organizational documents, LLC Agreement or other documents? If so, please provide details and any documentation, including information on funding commitments/requirements to meet these commitments (i.e. what structures are in being put in place to back up the commitments PIR is making to the .org community).
- Will any such commitments include the protection of free speech and an obligation to protect non-commercial community members on other issues (for example, a prohibition against the monetization of data)?

Domain Registration Pricing:

- Please provide details on the commitment on domain registration pricing and where that commitment will be set forth in writing and what entity will have the authority to enforce such commitments.
- Please also provide detail on what is meant by PIR’s public statements that it will not increase fees by more than “10% per year *on average*”.

Transparency Principles:

- Please provide detail on the “adoption of transparency principles” mentioned in Attachment 10. Include any documentation where these principles can be found, including information on who holds the authority to uphold these principles.

Differentiation of .org from TLDs intended for commercial purposes:

- PIR states that the proposed transaction represents a commitment to differentiation of the .org TLD. Please provide more detail on that statement.
- In addition, please provide details on any commitments intended to differentiate the .org TLD. Please provide documentation where these commitments are or may be set forth.

Responsiveness to the needs of the non-commercial community:

- Please provide more information on “mechanisms” mentioned in your responses for promoting the registries in a manner that is responsive to the needs of the community and more information on the “announced investment” by Ethos Capital mentioned in the responses. Please provide any documentation to support these commitments and any future investments, including information on who holds the authority to uphold these commitments.
- How will the input of the community be taken into consideration in regards to these mechanisms?
- Do these mechanisms include commitments related to the protection of free speech and the protection of data?

With respect to each of these important matters listed above regarding protection of the .org community, will these protections be set up in a manner to be binding not only on PIR and the proposed new owners (Ethos Capital) but also on any future owners of PIR? And if so, please provide information on how.

DOCUMENTATION/FILINGS WITH PENNSYLVANIA AUTHORITIES

PIR has provided information regarding the status of various filings with Pennsylvania authorities (including the PA Secretary of State, PA Dept of State, PA Attorney General and the PA Court of Common Pleas). Please provide copies of all filings with PA authorities and any responses or decisions issued from such authorities as such filings or responses/decisions are issued.