

Public Position of the Internet Society Portugal Chapter (ISOC-PT) On the proposed sale of .ORG by the Internet Society



26 February 2020

<https://isoc.pt>

Preface on the History of this Public Position

On 13/1/2020 ISOC Portugal board made public this document as its public position on this issue.

Some days after, the board started a public consultation of the members of the chapter, based on all the information assembled, as well as on this chapter board position. The results of this inquiry lead to a result of around 25% of respondents supporting the position of the Board of Trustees of ISOC in favour of the sale, and around 75% sharing the board concerns on the sale. The number of responses to the inquiry corresponds to about 20% of the members that in general open the email messages sent to members. The opinion of those that do not answered the inquiry are not known.

On the General Assembly of 26/2/2020 a formal vote made this position approved by the assembly. Although it was unanimously approved by the members present in the assembly, the results of the enquiry show better the sentiment of the members that cared to answer it.

Sale of .ORG Management - The Problem and its Different Aspects

Since 2002, the main source of funding for the Internet Society (ISOC) has come from surpluses generated by the activity of the PIR (Public Internet Registry), an entity subordinated to the Internet Society, whose activity is limited to the management of the .ORG TLD. The management of this TLD was assigned to the Internet Society by ICANN in 2002.

It was recently announced by the Internet Society's Board of Trustees (ISOC Board of Trustees - BoT), ISOC's governing body, that ISOC had decided to sell the PIR (Public Internet Registry) to the private investment fund Ethos Capital, for 1135 million USD. If this sale is made, the .ORG will be managed by a private company that, according to the existing agreement with ICANN, can increase the registration price of the domains according to its convenience and the competition of alternative Top Level Domains (TLDs).

The .ORG domain currently contains around 10 million registered subdomains. The surplus of the management of the .ORG carried out by the PIR amounts annually to approximately USD 50 million, which revert to ISOC. The proceeds of the sale, to take place, will be invested in a fund whose financial income will start to finance the activity of the Internet Society.

From the point of view of financial profitability, everything indicates that the business would be

favourable to the Internet Society. In fact, the value of the sale is equivalent to about 15 times the billing of the PIR and about 22 times the surplus of that management. The valuation underlying the business appears to be excessive even in sectors with high margins, and although TLD management is a highly profitable sector, it is not clear how the Ethos Capital fund will be able to profit from the investment.

In light of the current Internet Society contracts with ICANN, the Internet Society statutes and the PIR entity, and the laws of the US states where both are registered, there is no illegality in the sale.

The advantages of selling to the Internet Society have been presented by BoT and the CEO of ISOC on several occasions and through various documents, such as the following:

Initial sale announcement:

<https://www.internetsociety.org/news/press-releases/2019/ethos-capital-to-acquire-public-interest-registry-from-the-internet-society/>

Joint message from ISOC, Ethos Capital and PIR:

<https://www.internetsociety.org/blog/2019/11/the-internet-society-and-public-interest-registry-a-new-era-of-opportunity/>

Message from the ISOC CEO:

<https://www.keypointsabout.org/blog/advancing-the-internet-societys-mission-into-the-future>

Message from the Chair of the ISOC Board of Trustees:

<https://www.internetsociety.org/blog/2019/12/the-sale-of-pir-the-internet-society-board-perspective>

Ethos Capital, PIR and ISOC pages, with clarifications on the sale:

<https://www.keypointsabout.org/>

Ethos Capital website: <https://ethoscapital.com/>

Transcript of the webinar held on 11/29: https://isoc.live/pir/PIR_Community_Forum.pdf

In summary, and potentially simplified, the advantages of the sale, according to ISOC's BoT, are essentially the following:

- ISOC gains enormous financial stability in the short, medium and long term and frees itself from dependence on the future evolution of the domain sales business;
- ISOC will be able to concentrate on its essential activity, no longer wasting time with the management of the PIR, as it is possible to hand over the financial management of the new fund to professionals, for example to the bank Goldman Sachs, ISOC's current financial advisor;
- ISOC no longer has to be involved in the business of domains which, it seems to us, BoT increasingly finds little stimulating;
- the PIR entity, with a capital increase, will be able to better promote the .ORG domain and broaden its scope, which is not within the reach of ISOC.

However, this potential sale has raised a great deal of controversy, and several criticisms have been made public, namely the following:

Save Dot Org Campaign: <https://savedotorg.org/>

Access Now membership position: <https://www.accessnow.org/access-now-calls-on-icann-and-internet-society-to-halt-the-sale-of-org/>

Position of the Electronic Frontier Foundation association: <https://www.eff.org/deeplinks/2019/12/we-need-save-org-arbitrary-censorship-halting-private-equity-buy-out>

Tim Berners-Lee's position: <https://www.cnet.com/news/profit-priorities-could-taint-org-domain-web-inventor-tim-berners-lee-worries/>

Formation of an alternative proposal: <https://www.nytimes.com/2020/01/07/technology/dot-org-private-equity-battle.html>

Just as there was also news in the press about the fears that such a sale would raise among “not-for-profit” entities: <https://www.wsj.com/articles/nonprofits-fear-cost-of-org-domain-names-will-rise-sharply-11574283751?fbclid=IwAR217we25YSSUiYjpWQ0UfkJu8Fv8WojfKJqdpdrCKlloMikfsBVHINKrtA>

Numerous situations of potential conflict of interest between Ethos Capital and former ICANN senior management have also been reported, raising doubts and uneasiness around domain business.

Following are references to some articles in the press that denounce this type of alleged conflicts of interest:

<https://domainnamewire.com/2019/11/13/the-interesting-connection-between-the-org-deal-and-icann/>

https://www.theregister.co.uk/2019/11/20/org_registry_sale_shambles/

http://www.circleid.com/posts/20191119_thoughts_of_an_icann_public_interest_stakeholder_on_dot_org_sale/

https://www.theregister.co.uk/2019/11/26/org_selloff_internet/

<https://www.ft.com/content/08066a5a-11b2-11ea-a7e6-62bf4f9e548a>

<https://www.opendemocracy.net/en/hri/private-equity-firm-procures-org-internet-society-or-how-public-interest-got-sold-out-again/>

https://www.theregister.co.uk/2019/12/03/internet_society_org/

The Position of Some Chapters

Following the discussion of this sale, there were several manifestations of discomfort from members and chapters of the Internet Society. On November 26, 2019, the Dutch Chapter published the following transcript:

“We call on ISOC Global to reverse the sale of the .ORG domain to private equity firm Ethos Capital.

We invite all ISOC chapters across the world to join us in this statement.

In May 2002, ICANN formulated a number of criteria for the reassignment of the .org Top Level Domain, amongst which:

- Inclusion of mechanisms for promoting the registry's operation in a manner that is responsive to the needs, concerns, and views of the non-commercial Internet user community.
- Demonstrated support among registrants in the .org TLD, particularly those actually using .org domain names for non-commercial purposes
- The registry fee charged to accredited registrars should be as low as feasible consistent with the maintenance of good-quality service.

In response, upon selection, then ISOC Global President Lynn St. Amour issued the following statement: "We are thrilled to have this opportunity to serve the worldwide .ORG community and are dedicated to making .ORG a truly global home that will serve the unique interests of non-commercial organizations on the Internet."

We believe that the 2019 decision of ISOC Global to sell PIR to private equity firm Ethos Capital is not in line with ICANN's criteria from 2002 and the subsequent promise from ISOC Global.

Despite ISOC Global's assurances to the contrary, we share the misgivings of the international community about giving a single privately-owned entity the power to raise tariffs, implement rights protection mechanisms possibly leading to censorship, and suspend domains at the request of local governments.

We call on ISOC Global to reverse the sale of the .ORG domain to private equity firm Ethos Capital. We invite all ISOC chapters across the world to join us in this statement."

On November 27, 2019, the Swiss Chapter decided to support the appeal of the Dutch Chapter and on the 28th the board of the Portuguese Chapter also decided to adhere to the appeal.

Our Position

The reasons that led us to call for a reversal of the sale are related to a set of doubts and questions that this operation raises. Some of them are presented below.

Consistency with our previous positions on .PT management - The management of TLD domains with numerous registered subdomains always frees up an important financial margin. How should these financial resources be used? In our opinion, this depends on the nature of the TLD.

The choice of a TLD to register our subdomain is determined by several factors, including price, personal taste, message to be transmitted, etc. In the case of domains with historical, sentimental, identity or nationality / belonging weight, such as many ccTLD domains such as .PT, .BR, .NL, .FR, .EU, etc. or as for example .ORG, .EDU, .MIL and many of the same type, the financial surplus released must be placed at the service of the community that adheres to the domain and that identifies with it. In the case of ccTLDs, the State and civil society should, in our opinion, maintain control over the management of the domain and the resources released by it.

This was the sense of the allocation of the .ORG management to ISOC. The .ORG sale is against that spirit.

Why should ISOC be the exclusive beneficiary of the added value that the .ORG sale provides? ISOC limited itself to professionally and technically efficient management of .ORG. The only "advertising" done was limited to advertising the "not-for-profit" character of the management and the community that gave rise and caressed the domain.

Why not revert to that community now, part of that added value? ISOC is not the only non-profit organization that promotes and defends an open, free and service-oriented Internet. Many of the reactions of disappointment came from exactly those entities that feel subordinate, some of which are listed above.

At the limit, ISOC is in an ethically unhealthy position since, of course, the new owner of the PIR, a private entity whose objective is to maximize the profit of its investors, will tend to increase the prices of .ORG registrations. That is, the benefit of the ISOC may result in a loss for other .ORG entities.

After all, what is the ISOC's position on the functioning of ICANN? Although this is not part of ISOC's current strategic plan, the fact is that for a long time ISOC was a strong supporter of the "multistakeholder" model of Internet management. One of the greatest exponents of the success of this model is ICANN, its management from the root of the DNS and its regulation of TLDs (not linked

to countries).

This solution is not without controversy. Several countries, some for unavoidable reasons, believe that the role played by ICANN should be attributed to a United Nations body and accuse ICANN of being an agent of the interests of the great American global companies that operate on the Internet.

Several times we have had to defend ICANN from these attacks, or these "sins". As do countless ISOC activists who actively participate in the activities of ICANN advisory committees.

The management of .ORG was carried out in the last 17 years by ISOC, which now intends to sell the domain. The sale involves potential conflicts of interest with former ICANN employees. ICANN may be called upon to make a decision on the deal: to authorize or veto it. You may also need to define clearer supplementary "periods of disgust" rules for your senior employees.

It would be interesting to know what recommendations the ISOC BoT would give to its members with presence in ICANN bodies that were called upon to comment on the matter. It seems to us that the answer can only be: proceed according to your conscience, as the ISOC BoT does not speak.

We believe that if this position is the only one compatible with the sale, ISOC should go on to say publicly that it does not comment on Internet governance issues and also declare that its numerous Chapters that are ICANN "At Large" members, they are on their own when speaking out on ICANN matters.

ISOC is not obliged to do this, but does the value proposed by Ethos Capital for the acquisition suggest a potentially speculative business plan?

In addition, does the presence of former senior ICANN employees at Ethos Capital not make the process objectionable in terms of lack of transparency and potential conflicts of interest? Wouldn't there be less controversial alternatives to the secrecy with which this process was conducted?

Finally, a non-for-profit entity that wants to have a social and not merely technical role, and that wants to have associate members, activists in its causes, must fight for its funding and involve members, including individual ones, in obtaining that funding.

This struggle is a guarantee of the association's link to the community it intends to serve, even if it seeks more resources from "rich" donors.

In conclusion

In short, the reputational losses from the sale to ISOC are greater than the immediate financial advantages. In addition, a non-profit entity, whose financing comes mainly from an investment fund, will tend to withdraw and dispense with the hearing of its individual members and of the chapters, and to concentrate its action on essentially technical and not controversial issues. We feel legitimate to have fears about the potential evolution of the governance model of such an entity.

The Internet is an admirable communications and collaboration infrastructure. Like any technology, it can be used for good or for evil. The future impact of the Internet on Humanity is not, essentially, a technological issue, much less a business like any other.