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10 October 2006

John Jeffrey, Esq.
General Counsel & Secretary
Internet Corporation for Assigned
Names and Numbers
4676 Admiralty Way
Marina del Rey, CA 91206

Re: Secretary's Notice of 27 September 2006

Dear John:

Public Interest Registry (PIR), operator of the registry of .ORG, is pleased to respond to the Secretary's Notice of 27 September 2006 regarding a "Request for Information to Registry Operators of .BIZ, .INFO and .ORG and proposed Registry Operator of .ASIA."

We understand that the ICANN Board, at its meeting on 25 September 2006, took the following action:

"[The Board] discussed the public comments including: 1) the comments regarding the delay of the registry agreements until the pdp-feb06 is completed, and 2) comments regarding requests for limitations on price increases during renewal, as opposed to differential pricing for individual registrations.... There was a 'sense of the board' that additional information was required for the Board to fully consider the agreements, and the Board specifically expressed a desire to see communications from each of the registries responding to the public comments that had been received during the public comment period."

We welcome the opportunity to provide these comments in response to the Board action. PIR regards its commitment to operate in the public interest as its highest obligation, and we believe that a review of our past accomplishments and commitments for the future fully justify prompt Board action on the pending renewal of the .ORG agreement.

On 27 June 2006, ICANN posted for public information a proposed new registry agreement for the operation of the .ORG registry. The terms of the proposed .ORG renewal agreement, like the other proposed gTLD renewal agreements, are based on the modifications of the pattern of registry agreements negotiated and implemented with

various sTLDs such as .JOBS, .TRAVEL and others, as well as in the agreement with VeriSign for management of the .NET registry. The terms of the proposed new .ORG agreement have been negotiated in good faith by ICANN and PIR. We believe that these terms are truly in the best interests of all Internet users everywhere.

PIR was created by the Internet Society (ISOC) to operate as a separate not-for-profit entity to support .ORG operations, to provide service improvements and marketing and other outreach programs. By leveraging ISOC's proven mechanisms, PIR has been able to commence operations and provide outreach without a lengthy start up period.

Further, PIR was created to operate .ORG in such a way as to preserve the stability of the Internet and the DNS; deliver technically sound, high quality services; and meet the needs of .ORG registrants.

PIR and ICANN have agreed to a renewal process that is somewhat different from that contemplated by the Registry Agreement for .ORG currently in force. For that reason, PIR has prepared and is concurrently making public a statement to the Internet community containing the kind of information that would have been included in a "Renewal Proposal", as called for by the current Agreement. PIR is offering this statement as an interim report to the community of its three-plus years of operation of the .ORG registry.

Detailed accounts of the operation of the .ORG registry are contained in the "About .ORG" two year report publication as well as Annual Reports of PIR, for the years 2004 and 2005 available at the PIR website: <http://www.pir.org/Publications/Reports.aspx>. Some highlights of these Reports are the following achievements:

1. Growth of the number of domain registrations from approximately 2.5 million to over 5 million.
2. Support for projects to promote the development of the Internet
3. Policy positions on behalf of the .ORG community
4. Commitments to performance enhancements and expanded services through the implementation of EPP protocol, IDN s and plans for DNSSec.

PIR has carefully reviewed the public comments on the proposed renewal of the .ORG registry agreement (comments that generally apply also to the proposed renewal agreements for .INFO and .BIZ). As pointed out in the Secretary's notice, the principal contentious issues are the requests for pricing limitations, renewal terms and requests to delay the decision until the results of the pdp-feb06 were completed. The Secretary has asked specifically for comments on the first and last of these issues. With respect to the second issue, renewal terms, PIR strongly believes that the carefully phrased provisions for renewal set forth in the current proposal are fully consistent with ICANN's mission to preserve and protect the security and stability of the Internet. A carefully limited "presumption of renewal" will enable PIR to continue to invest in and build an effective registry organization to serve the public interest, as it has for the past three years.

In response to the specific questions raised by the Secretary's Notice, PIR offers the following:

1) The comments regarding the delay of the registry agreements until the pdp-feb06 is completed

Recently, in your capacity as General Counsel of ICANN, you responded to an inquiry by the chair of the GNSO regarding the potential retroactive effect of the outcome of pdp-feb06, stating, in part:

“without knowing what consensus policy or policies might emerge from the current PDP, any answer to this question would be speculative and cannot be answered definitively.”

And further:

“... [A] registry operator accordingly would not be obligated to comply with any ICANN policy that is not developed according to the policy-development procedure specified in the Bylaws or that does not relate to one of the limited topics (the so-called ‘picket fence’) for Consensus Policies.”

PIR concurs with your views as General Counsel, and believes that the public comments requesting a delay in the renewal process are based on a misunderstanding of the applicable legal principles and are misguided. Regardless of the outcome of pdp-feb06, it would be a breach of faith for ICANN to delay the approval of the terms of renewal agreements negotiated in good faith by the parties.

Further, PIR, as a member of the Registry Constituency of the GNSO, has participated actively in the pdp-feb06, and fully supports the comments filed by the Constituency that state, in part: “This PDP is not only unauthorized and out of scope, it is without legal foundation. It purports to impose possible conclusions of a PDP on subject matter that is exclusively within the responsibility of the Board of Directors of ICANN.”

2) Comments regarding requests for limitations on price increases during renewal, as opposed to differential pricing for individual registrations.

The issue of differential pricing, in the view of PIR, is a non-issue. When the proposed renewal agreement for .ORG was negotiated, PIR believed it implicitly continued the requirement of a single price for each domain name registration to all registrars (except for promotional discounts and marketing programs within the scope of the agreement). PIR has no intention of adopting “differential pricing” as that term is understood in the comments in question. If the Board believes that a more explicit statement in the proposed renewal agreement is appropriate, PIR would be more than willing to accept a clear statement to that effect and offers the following proposed wording as a suggested revision of the pending renewal agreement:

Section 7.3 Pricing for Domain Name Registrations and New Registry Services.

(a) Prices for Registry Services. The same price to ICANN-accredited registrars for new and renewal domain name registrations and for transferring a domain name registration from one ICANN-accredited registrar to another, shall be charged to all registrars with respect to each annual increment of a new or renewal domain name registration, and for transferring a domain name registration from one ICANN-accredited registrar to another, provided, however, that:

- (i) volume discounts, marketing support, and incentive programs may be made if the same opportunities to qualify for those discounts, marketing support, and incentive programs are available to all ICANN-accredited registrars; and
- ii) if ICANN approves a new Registry Service approved through the process set forth above (Registry Service Process), or to the extent a variable pricing model for active Registered Names has been implemented in any other new or existing gTLD, then different prices for such registrations may be charged.

The removal of price limitations in the proposed .ORG agreement is consistent with the new pattern established for registry agreements and, given that fact, we believe that it is appropriate for all renewed gTLD's to have the same provision.

PIR trusts that this communication resolves the questions raised by the Board at its 25 September meeting.

Respectfully submitted,
PUBLIC INTEREST REGISTRY



By _____
Edward G. Viltz, President and CEO