



Via Email: ATR.TFS@usdoj.gov
Danielle.Hauck@usdoj.gov
Via Fedex

August 31, 2021

Department of Justice
Technology and Digital Platforms Section
Liberty Square Building
450 Fifth Street, NW
Suite 4000
Washington, DC 20530-0001

Attn: Danielle G. Hauck, Assistant Chief

Dear Ms. Hauck:

Re: Verisign .COM Pricing Competition Concerns

We are writing to you because commencing September 1, 2021, Verisign will implement the first of its perpetual and unjustifiable price hikes on a largely captive market pursuant to Amendment 35 to the Cooperative Agreement.¹

As you will recall, you and Mr. Kent Brown kindly took a meeting with us and the National Council of Nonprofits on November 25, 2019. We provided you with the attached presentation and expressed our concerns regarding the state of competition in registry services for .COM and .ORG domain names, respectively.

Our aforementioned meeting followed the June 30, 2019 decision of the Internet Corporation for Assigned Names and Numbers (“ICANN”) to remove all price caps on the .ORG registry despite near universal condemnation from the nonprofit community and a “sham” public comment process.² As a result of ICANN’s removal of the price caps, a private equity firm, Ethos Capital, swooped in and attempted to purchase the entire registry for \$1.2 billion ostensibly to take

¹ <https://investor.verisign.com/news-releases/news-release-details/verisign-reports-fourth-quarter-and-full-year-2020-results>

² https://www.theregister.com/2019/07/29/icann_slammed_org_price/

advantage of the removal of price constraints on a largely captive market. After widespread outcry, then California Attorney General, Mr. Xavier Becerra wrote a scathing letter to ICANN dated, April 15, 2000 raising serious concerns about the purported acquisition and requested that ICANN withhold its approval of the acquisition.³

Mr. Bacerra in particular noted that *“there is mounting concern that ICANN is no longer responsive to the needs of its stakeholders”* and that the *“automatic renewal provision leaves the nonprofit community that uses the .ORG registry with no protection”*. As a result of the California Attorney General’s intervention, ICANN subsequently withheld its approval of the private equity takeover of the .ORG registry.⁴ Fortunately the .ORG registry remains in the hands of the nonprofit registry operator, PIR, and as a result, the ICANN-authorized removal of price caps has not yet resulted in price increases for the nonprofit community.

That is, however, not the case with .COM. As you know, the .COM registry is operated by Verisign, a public company with a \$24.15 billion market cap, under an exclusive and virtually perpetual contract with ICANN. Realizing that .COM has substantial market power and that there are no adequate substitutes for .COM domain names, the Department of Commerce concluded in 2012 that a price cap on Verisign’s wholesale pricing of .COM domain names must be implemented as it was in the “public interest”.⁵

The Department of Commerce’s conclusion and the implementation of a price cap of \$7.85 in 2012 pursuant to Amendment 32 to the Cooperative Agreement, followed a competition review which justified the price caps. The Department of Justice was actively involved in the decision to implement the price caps through the Registry Agreement and through Amendment 32 and stated that the “Department had thoroughly reviewed the proposal and consulted with NTIA before NTIA approved it”.⁶ Amendment 32 noted that absent demonstrated “market conditions that no longer warrant such restrictions” the price cap should remain. Subsequently, on August 21, 2016, the Department of Justice wrote that the NTIA “would have the right in its sole discretion to extend the term of the current price cap in place until 2024” thereby extending the \$7.85 price fee cap another six years to 2024.

No further competition review study has been conducted by the Department of Commerce to our knowledge since 2012. Yet on November 1, 2018, in a complete reversal of the Department of Commerce’s previous conclusions which were based on actual study and thorough DOJ involvement - and despite the right to extend the price fee cap to at least 2024 - NTIA announced that it had entered into Amendment 35 to the Cooperative Agreement “in line with policy priorities of the Trump Administration” namely to, “repeal Obama-era price controls and provide Verisign the pricing flexibility to change its .com Registry Agreement with ICANN to increase wholesale .com prices.”⁷ The NTIA further stated that “the market-based pricing flexibility

³ <https://www.icann.org/en/system/files/correspondence/becerra-to-botterman-marby-15apr20-en.pdf>

⁴ <https://www.icann.org/en/blogs/details/icann-board-withholds-consent-for-a-change-of-control-of-the-public-interest-registry-pir-30-4-2020-en>

⁵ https://www.ntia.doc.gov/files/ntia/publications/amendment_32_11292012.pdf

⁶ https://www.ntia.doc.gov/files/ntia/publications/2016-8-31_doj_response_to_cruz-lee-duffy.pdf

⁷ <https://www.ntia.doc.gov/press-release/2018/ntia-statement-amendment-35-cooperative-agreement-verisign>

permits Verisign to pursue with ICANN an up to 7 percent increase in the prices for .com domain names, in each of the last four years of the six-year term of the .com Registration Agreement”. Moreover, Amendment 35 itself stated that “the Department finds that ccTLDs, new gTLDs, and the use of social media have created a more dynamic DNS marketplace”.⁸

No study was conducted to reach the conclusion that a “more dynamic DNS marketplace” had emerged. This entirely unsupported conclusion upon which a multi-billion dollar windfall was bestowed to the registry operator, appears to have been made outside of any genuine policy development process involving genuine considerations of the public interest, market power, and competition. Surely if a “more dynamic” marketplace truly existed, competition would compel Verisign to *lower fees, not raise them*.⁹ Yet even the availability of hundreds of other new domain name extensions, often available for far lower registration and renewal fees than .COM, has had little significant impact on the continuing and burgeoning demand for .com domain name registrations.¹⁰ Accordingly, the so-called “more dynamic” marketplace appears to be nothing more than an inexplicable non-fact based assessment upon which to pin a price hike that serves no one but the registry operator itself.

The cost to operate the .COM registry, after taking into account the expensive infrastructure necessary to provide reliable and secure operations and high overhead, has been estimated at \$1.00¹¹ to \$3.50¹² per domain name per year – nowhere close to even \$7.85. By the end of the six-year .COM Registry Agreement term, the fee for each .com domain name will have increased to \$10.29 per year; a 30% jump from current levels.¹³ Even conservatively assuming that in six years’ time there are only the same number of .COM registrations as exist currently, i.e. about 154.6 million as of March 31, 2021¹⁴, the cumulative and compounded increase of \$2.44 per year, per domain name, would result in over \$377,000,000 *more* revenue for Verisign, per year - with no end in sight. Making things even more remarkable, is that Verisign already enjoys an incredible operating margin of 64.7%.¹⁵

The fact that ICANN has given the .COM registry operator a presumptive right of renewal enabling Verisign to continue to operate the registry indefinitely with no competitive bidding, along with Amendment 35’s perpetual price hikes, makes the entire situation an unconscionable market failure. As early as 2008, the Department of Justice advised the Department of Commerce that ICANN should be subjecting domain name registries to competitive bidding and that the .COM registry and other registries such as .ORG have market power¹⁶ yet to-date,

⁸ https://www.ntia.doc.gov/files/ntia/publications/amendment_35.pdf

⁹ For another perspective on the dubious rationale for lifting the fee freeze see: <http://domainincite.com/23641-trump-gives-verisign-almost-1-billion-in-free-money>

¹⁰ See: https://www.verisign.com/en_US/domain-names/dnib/index.xhtml

¹¹ See: https://www.theregister.co.uk/2018/11/02/dotcom_domains_pricing/

¹² See <https://domainnamewire.com/2018/09/11/verisign-cooperative-agreement/>

¹³ See: https://www.theregister.co.uk/2018/11/02/dotcom_domains_pricing/

¹⁴ https://www.verisign.com/en_US/domain-names/dnib/index.xhtml

¹⁵ <https://www.businesswire.com/news/home/20210722005761/en/Verisign-Reports-Second-Quarter-2021-Results>

¹⁶ Letter dated December 3, 2008, from Debra A. Garza to Meredith A. Baker; <https://www.icann.org/en/system/files/files/baker-to-dengate-thrush-18dec08-en.pdf>

ICANN has failed, refused, or neglected to implement the Department of Justice’s recommendations.

Despite the NTIA purporting to give ICANN the express authority to make a decision whether Amendment 35’s “flexibility” to increase in price fee caps was appropriate¹⁷, ICANN has resiled from its role. Amendment 35 “permit[ed] Verisign to pursue with ICANN an up to 7 percent increase in the prices for .com domain names, in each of the last four years of the six-year term of the .com Registry Agreement” (emphasis added). In other words, there was no order or prescription to ICANN to increase prices, let alone all the way up to the new maximum, but ICANN merely “rubber-stamped” the increase, despite overwhelming opposition from ICANN stakeholders¹⁸ and offers its repeated refrain that “it is not a regulator”.¹⁹ According to ICANN, “ICANN org is not a price regulator and will defer to the expertise of relevant competition authorities. As such, ICANN has long-deferred to the DOC and the United States Department of Justice (DOJ) for the regulation of pricing for .COM registry services.”²⁰

Which brings us back to one of the fundamental questions. *If ICANN doesn’t believe that it is a regulator of .COM pricing and if NTIA isn’t the regulator since it allows ICANN to make the final decision on price increases, then who is regulating the .COM registry?* It appears that ICANN and NTIA both point at each other, and in the meantime consumers are the losers. Unjustified and perpetual price increases on .COM domain names extract hundreds of millions of dollars in rent-taking for what is fundamentally a public resource that Verisign did not create and is merely the contracted manager of. Without governmental oversight and intervention, ICANN has proven itself unwilling and/or incapable of regulating the prices charged by its own contracted parties and NTIA has permitted Verisign to jack up prices perpetually without any competition study having been conducted.

Not only did Amendment 35 provide for unjustifiable price hikes on a largely captive market, but the Cooperative Agreement’s six year term will automatically renew for successive six year terms – without any requirement to rebid and without any opportunity for further review or study - unless the Department provides Verisign with notice of non-renewal. As such, it is an “evergreen” contract now, ensuring unjustified continual price hikes for the foreseeable future.

¹⁷ Amendment 35 to the Cooperative Agreement merely stated that “the yearly price for the registration and renewal of domain names in the .com registry *may* be changed” [emphasis added], and that” ICANN *may* agree to amend” the Maximum Price [emphasis added]. NTIA’s Statement¹⁷ on Amendment 35 expressly stated that Amendment 35, under the heading of “Pricing Flexibility”, merely “*permits* Verisign to *pursue* with ICANN an *up to* 7 percent increase in the prices of .com domain names” [emphasis added].

¹⁸ https://circleid.com/posts/20200306_report_and_analysis_of_public_comments_submitted_to_icann_part_i; and also see https://www.theregister.com/2020/03/30/dotcom_price_rises/

¹⁹ ICANN critics often point to ICANN being “captured” by large corporate interests within its “multistakeholder model” thereby rendering it incapable of performing a regulatory function. See for example; https://circleid.com/posts/the_villain_in_the_icann_verisign_struggle and also see <https://reviewsignal.com/blog/2019/06/24/the-case-for-regulatory-capture-at-icann/>

²⁰ <https://www.icann.org/public-comments/com-amendment-3-2020-01-03-en>

Since consent to amendments of the Cooperative Agreement is required by both parties, Verisign can refuse NTIA-proposed amendments and thereby force NTIA to either renew the agreement on these unfavorable terms or permit NTIA to not renew the Agreement since the agreement provides that in the event of the agreement's expiry, "neither party shall have any further obligation to the other and nothing shall prevent Verisign from operating the .com TLD pursuant to an agreement with ICANN".

Accordingly, if NTIA does provide notice of non-renewal, Verisign will be free to enter into unfettered contracts with ICANN.²¹ That means that on one hand, the unjustified 7% increases in 4 out of 6 years of each term (compounded) will either last indefinitely (if the Department doesn't give notice of non-renewal) or will be increased even more without any restrictions whatsoever (if the Department does decide not to renew). The express "public interest" consideration component was entirely removed from the Cooperative Agreement under Amendment 35, with the Department characterizing such omissions as "unnecessary and burdensome".

Fortunately, a crucial vestige of meaningful oversight of the .COM Registry Agreement remains. Pursuant to Section 7 of Amendment 35, no federal antitrust immunity is conferred on Verisign. That means that the Department of Justice remains able to exercise its investigative and enforcement powers in order to correct what is a grievous and continuing market failure.

As you know, on July 9, 2021 the President issued the Executive Order on Promoting Competition in the American Economy.²² The Executive Order heralds a renewed focus and vigilance when it comes to ensuring robust competition, something which is severally lacking in the .COM space and particularly as a result of the prior Administration's Amendment 35. The Executive Order in particular notes that "dominant Internet platforms" use their power to "extract monopoly profits" and that Americans are "paying too much for communications services, in part because of lack of adequate competition". This is precise what is occurring with regard to the .COM market.

The Executive Order "recognizes that a whole-of-government approach is necessary" to address monopolization in the American economy. The Department of Justice has recognized that "because of the Internet's critical role in the U.S. economy and in enabling competition, the Department has been and will continue to be vigilant in monitoring competition issues implicated by its operation and governance."²³

We are hopeful that under the new Administration and particularly under the Administration's recent nominee to lead the DOJ's Antitrust Division, the Department of Justice will actively review this matter, conduct appropriate competition reviews, and take all appropriate actions to promote and enforce competition. As we saw with Mr. Bacerra's successful intervention as

²¹ See Section 6 (Expiration Date) of [Amendment 35](#)

²² <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>

²³ *Supra* at Footnote 5.

California Attorney General, the domain name industry and ICANN in particular, is in desperate need of sound and fact-based regulatory oversight. We would be pleased to provide whatever further information the Department may require.

Yours truly,
INTERNET COMMERCE ASSOCIATION



Per:
Zak Muscovitch
General Counsel

Encl.

cc: Mr. Richard Powers, Acting Assistant Attorney General, Antitrust Division
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Mr. Aaron D. Hoag, Chief, Technology and Digital Platforms Section (aaron.hoag@usdoj.gov);
Mr. Adam T. Severt, Assistant Chief, Technology and Digital Platform Section
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Competition Concerns in the Markets for Internet Domain Names

Internet Commerce Association and
National Council of Nonprofits

November 25, 2019

Confidential Treatment Requested

ICA and the National Council of Nonprofits

- **ICA** represents Internet domain name registrants and related service providers.
 - ICA members operate primarily in the highly competitive domain name aftermarket.
- The **National Council of Nonprofits** represents 25,000+ charitable nonprofits across the country.
 - The National Council of Nonprofits has submitted detailed comments on domain registry issues. The comments were based on input from its members, its own experiences as an organization with multiple domains, and knowledge of how charitable nonprofits operate.



Domain Name Registry Operators

- **Public Interest Registry (PIR)** is the sole administer of the .ORG registry, which includes over 10 million registrations.

- **Verisign**, a for-profit corporation, is the sole administer of the .COM registry, which includes over 140 million registrations.



DOJ Has Expressed Concern for the Internet Domain Market

- In **2008**, the DOJ Antitrust Division expressed concern that ICANN's contractual relations with domain registries conferred market power.

*Introducing New gTLDs Likely Would Enable the Exercise of Market Power by gTLD Operators and Likely **Would Not Constrain the Exercise of Market Power by .com and Other Existing TLDs***

Our investigation of the proposed .com agreement generated several findings that bear on the likely effect of creating new gTLDs. **First, we found that VeriSign possesses significant market power as the operator of the .com registry** because many registrants do not perceive .com and other gTLDs (such as .biz and .info) and country code TLDs ("ccTLDs," such as .uk and .de) to be substitutes.

- To restrain the registries' ability to harm consumers by exercising government-bestowed market power, DOJ advised that ICANN should (1) require competitive bidding for renewals and (2) impose maximum price caps.
- DOC agreed.

Competition Protections Were Not Fully Implemented

- In **2012**, the .COM renewal agreement with Verisign froze prices at \$7.85 after DOJ and DOC jointly expressed concerns about the pricing terms.
- In **2013**, PIR's .ORG registry renewal agreement capped price increases at 10% annually until 2019.
- ICANN did not implement competitive bidding for either registry.

ICANN Has Removed Limits on Registry Pricing

- In **2018**, NTIA amended its Cooperative Agreement with Verisign. That amendment permits Verisign to seek an amendment to its registry agreement with ICANN that would increase prices by 7% “in each of the last four years” of the six year contract.
 - *ICANN and Verisign are currently negotiating such an amendment.*
- On **June 30, 2019**, ICANN removed all price caps for the .ORG registry.
- Today, ICANN continues to award rights to operate domain registries through **perpetual no-bid contracts**.

ICANN Ignored Immense Opposition to its Policy Change

- The public comment period on ICANN's proposed .ORG policy change resulted in over **3,200 comments**. All but 6 commentators opposed the proposal.

"I am writing to oppose lifting price caps on .org and .info domains. This change could lead to tax-exempt organizations paying thousands of dollars per year to maintain domain names, which would make it impossible for many community nonprofits to maintain a web presence. This would have a detrimental affect the public's ability to obtain information and services, and could put small nonprofit organizations out of business."

~ [Comments of Dawn Merritt](#), Izaak Walton League of America, March 25, 2019

"The organization to which I belong is a registered nonprofit charity. Our domain is an essential part of our identity and our ability to engage our members and raise money for our operations. We are granted nonprofit charitable status because we bring a much needed benefit to the music and arts community. A significant increase in the price of our domain would diminish our ability to offer these benefits and threaten our survival."

~ [Comments of Jerry Silver](#), AROKIS Centre of Music Society, April 25, 2019

"Many of these organizations have long-held .org domain names and a substantial percentage of their meager funding is tied to donors being able to find them via those domains. The massive potential price increases (as opposed to the moderate ones that are already possible) would prohibit smaller organizations and personal projects from having a place on the Internet. This is an anti-competitive practice aimed squarely at eliminating smaller organizations and nonprofits from having a presence on the Internet."

~ [Comments of Chris Raters](#), April 24, 2019

"Why, in God's name, would anyone decide that .org domains in particular should be a market free-for-all?"

~ [Comment from the administrator](#) of dozens of domain names for various nonprofit ministries, April 24, 2019

Domain Registries Exercise Market Power

- .ORG has an **80 – 90% market share** among nonprofits with a charitable purpose.
- .COM usage is **nearly universal** among for-profit businesses. Of the Fortune 500 companies, 494 use the .COM domain.

Table 1: Selected .ORG and .COM Adoption Rates by Nonprofit Classification

Nonprofit NTEE Class	.ORG	.COM
Group C (Environmental)	92%	6%
Group G (Medical)	90%	8%
Group H (Medical Research)	87%	9%
Group R (Civil Rights)	90%	8%
Group V (Social Science)	91%	5%

.ORG and .COM Have No Meaningful Substitutes

- As the DOJ found in 2008, nonprofits do not consider alternative domains as substitutes for .ORG.
 - Despite the availability of new, lower cost domains (e.g., .foundation and .charity), only **0.15%** of all nonprofits are using these domains.
- PIR's 2018 Annual Report acknowledges that new domains do not pose meaningful competition.

It must be noted, however, that relatively few of these new gTLDs have achieved significant market share.

Even amongst the relatively large new gTLDs, a number of these relied on free registrations to grow their base of domains under management ("DUM"). In many cases, as each registration anniversary passes a significant percentage of their base does not renew. Not only does this put pressure on the new registry operators, it also raises doubt about the long-term value of many new top-level domains—which in turn depresses registrations and renewals, further straining the viability of these extensions.

.ORG and .COM Have No Meaningful Substitutes

- Businesses similarly reject alternatives to .COM
 - Potential customers who do not know the relevant domain name most often simply append .COM to a product or company name.
 - That creates a **strong preference for .COM** among businesses.
- Other alternatives, such as .BIZ, have never gained traction in the marketplace.
 - Despite being available for 17 years, .BIZ represents only **0.56%** of all registered domains.

Barriers to Switching Are High

1. There are extensive costs to switching domain names.
 - *E.g.*, business disruption, the need for updated marketing and promotional material, and the loss of website infrastructure and email.
2. Switching to a less credible domain name can cause a material loss in consumer trust and impact search engine rankings, traffic, and revenue.
3. Organizations are locked into maintaining their original domain names as well.
 - Abandoning prior domain name permits a new owner to misleadingly solicit donations or customers or otherwise undermine the mission of the current organization.

Lack of Competitive Bidding Has Led to Market Failure

- In the absence of competition, PIR and Verisign have imposed supracompetitive pricing for domain names.
- That is reflected in comparing their costs and margins with registries outside the U.S.:

Registry	Price Charged (per domain)	Cost to Registry (per domain)	Net Operating Margins
Verisign (.com)	\$7.85	\$1.00 - \$3.00	~ 65%
PIR (.org)	\$9.68	~ \$2.00	~ 79%
Germany	~ \$2.00	~ \$2.00	~ 0%

Lack of Competitive Bidding Has Led to Market Failure

- PIR opposes competitive bidding for the .ORG registry agreement, but relies on competitive bidding when outsourcing its registry operations.
- Since implementing competitive bidding for its own outsourced services, PIR's cost per domain has decreased from **\$3.49** to **\$1.67**.

	PIR Fees Paid to Afiliias based on 990 Annual Filings			
	Fees Paid to Afiliias	Base of .ORG at July 1 of each year		Estimated Cost per Domain
2010	\$ 27,672,049	8,477,095	\$	3.26
2011	\$ 28,704,215	9,330,340	\$	3.08
2012	\$ 29,081,068	10,030,645	\$	2.90
2013	\$ 31,970,956	10,322,118	\$	3.10
2014	\$ 33,173,705	10,410,128	\$	3.19
2015	\$ 34,978,686	10,565,758	\$	3.31
2016	\$ 37,978,497	11,273,638	\$	3.37
2017	\$ 37,806,841	10,819,359	\$	3.49
2018	\$ 18,066,321	10,788,451	\$	1.67

Lack of Competitive Bidding Has Led to Market Failure

- Each new registration and renewal is **pure profit** for Verisign.
- The cost to operate the .COM registry was \$456 million in 2009. In 2018, the cost decreased to \$447 million.
- Meanwhile, Verisign revenues have doubled from \$615 million in 2009 to \$1.215 billion in 2018. Profits increased from \$87 million in 2009 to \$582 million in 2018.

Observers Note the Registries' Monopoly Profits

Normally, companies with regulated prices aren't profit-making juggernauts. But in the third quarter of 2017, Verisign's operating income as a percentage of revenue hit 61.9 percent, putting it near the top of all companies in the S&P 500. This number has climbed steadily since 2006. If the trend continues, **sometime in the next decade Verisign will post the highest rate of profitability of any public company on earth.**

The Nation, following Verisign's Q3 2017 earnings release.

Verisign's position could be considered a "toll road" of the internet. They are the exclusive registry for .com and .net, giving them what could be **likened to a monopoly**. The company makes money mainly by collecting an annual fee (around \$8) for each of the 142 million .com and .net registered domains. If you have a website ending in .com or .net, Verisign is collecting its annual toll from you (via the registrar who sold you that domain name).

The margin on this recurring revenue is extraordinarily high, and there is very minimal need for cash in this business. The high margin recurring revenue and the low capital requirements lead to stable and predictable free cash flow, which the company uses almost exclusively to buy back stock. In the last ten years, fully-diluted shares outstanding have shrunk from around 250 million to 125 million. **The company simply collects its toll and consistently eats away at its own shares.**

Saber Capital, 2016 Investor Letter.

Investors Seek to Exploit the Potential of the .ORG Monopoly Profits

- In mid-November, just months after removing price caps from the .ORG registry agreement, it was announced that PIR is being sold to Ethos Capital for an estimated sum of **\$2 billion**.
- Ethos Capital is a private equity firm reportedly connected to two former ICANN executives, including a former CEO.

Selling off PIR, did ISOC just throw .org registrants under a bus?
Kevin Murphy, November 13, 2019, 19:10:50 (UTC), Domain Registries

Public Interest Registry is to lose its not-for-profit status, dramatically increasing the chances of .org price increases, under an acquisition deal announced this evening.

The Internet Society is selling PIR to a brand-new private investment firm called Ethos Capital Investors, which is run by two people with ties to the domain industry.

PIR CEO Jon Neveitt told DI today that the company is no longer a non-profit following the transaction, and that ISOC will no longer receive a slice of every .org registration fee.

There's a lot to unpick here.

The biggest concern is arguably that the deal substantially increases risk for .org registrants.

PIR was recently, and very controversially, granted the right to raise its prices from \$9.93 per year to whatever-the-hell-it-wants per year, due to a renegotiation of its ICANN contract that scrapped its longstanding 10%-per-year price increase caps.

Many domain investors and non-profits called for the caps to remain. Uncontrolled pricing could lead to smaller charities, for example, being priced out of their decades-held domains, it was claimed.

Domain Incite, November 13, 2019.

Consumers Are Harmed by Overcharges

- ICA estimates that consumers suffer ~ **\$750 million** in annual overcharges on .COM registrations.
- Likewise, consumers suffer ~ **\$60 million** in annual overcharges on .ORG registrations.
- Despite network expenses trending sharply lower, PIR has increased the base fee for .ORG registrations from **\$6.00** to **\$9.68** since 2002, costing nonprofits millions of dollars per year.

Abuse of Market Power Will Harm U.S. Nonprofits

- About **97%** of charitable nonprofits have budgets of less than **\$5 million** annually and **88%** spend less than **\$500,000** annually.
- Removing limits on price increases for .ORG will subject nonprofits to “unpredictable and unrestricted price hikes.”
- “Every \$1 in increased prices on the 10+ million .ORG domain users would generate more revenue each year than is utilized by all but the top 1% of charitable nonprofits.”

Market Failure Requires Intervention

- Monopoly power over .COM and .ORG domains has resulted in consumers absorbing tens of millions of dollars annually in excess expenses.
- Market forces cannot lead to competitive pricing without competitive bidding.
- The only solutions are **competitive bidding** and/or **price constraints** reasonably tied to registry expenses.

The Antitrust Division Should Advocate for Competition

- The Antitrust Division should **urge** the Department of Commerce and ICANN to protect competition.
- ICANN should be required to choose registries through a competitive bidding process that leads to lower prices to consumers.
- In the absence of competition—especially when caused by a government-bestowed monopoly—pricing constraints may be necessary as a proxy for competitive pressure.