



The GNSO Intellectual Property Constituency (IPC) appreciates the opportunity to comment on the "Next Steps to Improve the Effectiveness of ICANN's Multistakeholder Model" (Evolving MSM) document.¹ IPC's comments here incorporate and build on its initial comments filed with ICANN on the Evolving MSM filed 25 June 2019.²

The IPC understands that the Evolving MSM process is an integral part of the ICANN Strategic Plan for Fiscal Years 2021-2025. However, the IPC is concerned that the Evolving MSM process will be ineffective in resolving any of the issues set out in the Final Issues list. The IPC agrees with the remarks made by ICANN Board Chair Cherine Chalaby when opening ICANN 63 which set out the problems with the multi-stakeholder model (MSM).

The Evolving MSM process has been a well-meaning, but ultimately futile exercise. The process has been all about "identifying" problems with the MSM, using the existing MSM. There has been no clear designation of responsibility for making decisions, with the only output so far being a high-level list of well-known problems with the MSM. The list is not exhaustive, with many of the issues with the MSM dropped, conflated or otherwise excluded from the list, including in particular flaws in the structure of, and weighted voting practices within, the GNSO, which underlie most issues identified in this Evolving the MSM exercise including the lack of representativeness, inclusivity, and consensus and the prevalence of distrust, silos and unnecessary complexity.

The Evolving MSM document proposes several community solutions to address the issues. However, these community solutions have their own scope and limitations. Referring out of scope issues to existing community work, or simply suggesting that they be addressed at a later time, is an example of ignoring the identified issue that work should be narrowly scoped. For instance, PDP 3.0 is a GNSO Council exercise attempting to resolve issues within the GNSO policy development process, and is not attempting, or purporting to attempt, to deal with the issues present in the MSM at a community level. Further, ICANN's proposal would conflate distinct issues that need to be addressed in order to evolve the MSM effectively (*e.g.*, merging into one Issue the Representation, and Inclusivity with Recruitment and Demographics). Tellingly, the current request for Public Comment focuses solely on the Work Plan and fails to address how exactly community input will be referred out to, and more importantly implemented by, other work streams.

The IPC does not believe that referring vague issues to community tracks is the way to effectively evolve the MSM. If the issues are going to be referred to different community tracks, the IPC is concerned that there will be no way to determine whether the issue has been addressed. Currently there are no criteria to assess whether an issue has been resolved. If issues are going to be referred to community tracks, they need to be clear, actionable and measurable items and the relationship between existing workstreams should be clear and appropriately deferential (*e.g.*, use of financial resources, proposed in the Evolving MSM to be its own Issue, and the Strategic Plan for Fiscal Years 2021 – 2025, along with the work of ATRT3 and the PDP 3.0 initiative). Specific input to the Evolving MSM effort that overlaps with existing efforts should be fed into those existing efforts as appropriate.

¹ <https://www.icann.org/public-comments/multistakeholder-model-next-steps-2019-08-27-en>.

² <https://mm.icann.org/pipermail/comments-evolving-multistakeholder-model-25apr19/2019q2/000016.html>.

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The IPC supports evolving the MSM but reiterates its concern and dissatisfaction with the Evolving MSM consultation process and its decreasing likelihood of producing any meaningful improvements to ICANN, particularly when there are many pressing issues requiring resolution in order to provide confidence in ICANN's role and capabilities. Thus, the IPC recommends that no issues get referred out to separate work streams or addressed at a later time, without a clear mechanism for actually addressing those issues. More importantly, the IPC recommends that the Evolving the MSM fully consider and focus efforts on structural corrections within the GNSO, rather than relegating that topic to public comment archives.