

# Summary Table of Final Agreed Sunrise Questions, Data & Discussions

*Draft as of 16 April 2019 - Prepared by ICANN staff for use by the Sunrise Sub Team*

| ANALYSIS GROUP SURVEY RESULTS | DATA PREVIOUSLY COLLECTED | ADDITIONAL DATA SUBMITTED |
|-------------------------------|---------------------------|---------------------------|
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## Background

In December 2018, the Sunrise Sub Teams was formed to review all three sets of Sunrise related data with a view toward answering the agreed questions, which are also based on refinements of the original Charter questions. The data the sub teams that are tasked to review encompass the following:

- Results of Analysis Group’s Sunrise and Trademark Claims surveys
- Data collected prior to the launch of the Analysis Group’s Sunrise and Trademark Claims surveys
- Additional data submitted by Working Group members in February 2019

See attached Appendix for a list of the data reviewed by the Sub Team up to date. The Sub Team completed their review and discussion of all data on 27 February 2019.

For the actual text of the agreed questions submitted by the Sunrise Charter Questions Sub Team to the full Working Group, please see the Status of TMCH & Related RPM Discussions summary document also circulated by ICANN staff ([3 December 2018](#)). Between the date of the Sub Team’s report and the submission of a Working Group data request to the GNSO Council in September 2017, the Working Group discussed the Sub Team’s suggestions for refining the original Charter questions as well as for data collection.

The Sunrise Charter Questions Sub Team developed the following definitions for various specific terms used in the final list of agreed questions:

- **Reserved Names:** second level domain names that are withheld from registration per written agreement between the registry and ICANN (see Section 2.6 and Specification 5 in the base Registry Agreement).
- **Premium Names:** second level domain names offered for registration that, in the determination of the registry, are more desirable for the purchaser.
- **Premium Pricing:** Pricing of second level domain names that are determined by the registry as Premium Names.
- **Standard Pricing:** Pricing of second level domain names at the General Availability stage that is not Premium Pricing, including without limitation renewal pricing that is not Premium Pricing.

## Disclaimer

The contents of this summary table reflect the input/comments provided by Sub Team members via Google Doc homework assignments and during Sub Team meetings.

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## Clarifying Notes

Under each agreed question, the following sections are included in the summary table:

- “Tentative Answers & Preliminary Recommendations” includes the summary of draft Sub Team answers to the agreed question, as well as related preliminary recommendations; there are also link(s) to the wiki/web page of the Sub Team meeting(s) when the draft answers and preliminary recommendations were discussed.
- “Data” refers to the data quoted by Sub Team members in their input/comments. Sub Team members used the [Survey Analysis Tool](#) to review the Analysis Group survey data, referenced the [Source Tab](#) to review the previously collected data, and reviewed the additional data submitted via the Google Docs set up for this purpose (direct links to the submitted sources are provided in this summary table).
- “Details” points to the Google Doc homework assignments where Sub Team members provide their input/comments; high level notes of Sub Team meeting discussions are also included in the Google Docs.
- “Sub Team Discussions” points to the wiki page link(s) of Sub Team meeting(s) when the agreed question was discussed.
- “Summary of Discussions/Individual Comments” is a summary of comments/input provided by the Sub Team members during their discussions of the analysis group survey results, data previously collected, and additional data submitted (19 December 2018 - 27 February 2019).
- “Not Applicable” refers to a situation where the data reviewed do not really assist in answering the agreed question.

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| <p><b>PREAMBLE QUESTION</b><br/>                     (intended as “level setting” questions by the Sunrise Charter Questions Sub Team):</p> <p>(a) Is the Sunrise Period serving its intended purpose?<br/>                     (b) Is it having unintended effects?<br/>                     (c) Is the TMCH Provider requiring appropriate forms of “use” (if not, how can this corrected)?<br/>                     (d) Have abuses of the Sunrise Period been documented by trademark owners?<br/>                     (e) Have abuses of the Sunrise Period been documented by Registrants?<br/>                     (f) Have abuses of the Sunrise Period been documented by Registries and Registrars?</p> |   |   |
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| <p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b><br/>                     TM &amp; Brand Owners tab: rows 14-26, 34-43, 84, 85<br/>                     Registry &amp; Registrar - Q15 &amp; Q4f tab: cells B10-14, B22-27, F52, rows 47-54<br/>                     Registrar - Q4h tab: cells B5-7, C5-7, E8, F8<br/>                     Registry &amp; Registrar - Q16 &amp; Q4g tab: cells D26-34</p>  | <p><b>Data (See: <a href="#">Source Tab</a>)</b><br/>                     Registry Operator Responses<br/>                     Deloitte Responses: Questions 15, 20<br/>                     Deloitte Follow Up: Questions 1, 2, 5, 6<br/>                     Deloitte TMCH Report: pp.10-11<br/>                     Analysis Group Report: pp.3, 6, 8-9, 34-35, 64-67, Appendix<br/>                     INTA Survey: pp.6, 9, 14-15, 31, 51-52, 58-59</p> | <p><b>Data</b></p> <ul style="list-style-type: none"> <li>● <a href="#">How one guy games new gTLD sunrise periods</a></li> <li>● <a href="#">Fake Trademarks Stealing Generic Domains In New gTLD Sunrises</a></li> <li>● <a href="#">The Trademark ClearingHouse Worked So Well One Company Got 24 new gTLD using The Famous Trademark “The”</a></li> <li>● <a href="#">Is The Trademark Clearinghouse Causing New gTLD’s To Lose 6X The Number Of Registrations?</a></li> <li>● <a href="#">How common words like Pizza, Money, and Shopping ended up in the Trademark Clearinghouse for new TLDs</a></li> <li>● <a href="#">The numbers are in! Donuts sunrise typically get 100+ domains, but they also got gamed</a></li> </ul> |

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|  |   | <ul style="list-style-type: none"> <li>• <a href="#">Digging in on Donuts’ Sunrise: Amazon tops the list, gaming, and top registrars</a></li> <li>• <a href="#">.Build Registry Using Questionable Swiss Trademark Registration To Grab “Build” Domains In Sunrise</a></li> <li>• <a href="#">How Did RetailMeNot Get 849 .Codes Domains In Sunrise Without Any Trademarks?</a></li> <li>• <a href="#">Are We Running Out of Trademarks?</a></li> <li>• <a href="#">WIPO FAQ on Geographical Indications</a></li> <li>• <a href="#">Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET</a></li> </ul> |
| <p><b>Details</b><br/> <a href="https://docs.google.com/document/d/1Fw2j0gTvXi8lKlt5qELD6i1lfg7-9-jfSup8MEmH80/edit?usp=sharing">https://docs.google.com/document/d/1Fw2j0gTvXi8lKlt5qELD6i1lfg7-9-jfSup8MEmH80/edit?usp=sharing</a></p>           | <p><b>Details</b><br/> <a href="https://drive.google.com/open?id=1ph-QXnQLWPVXCDVtM8I51r8Nt0Xojil-CR0fU6cupiU">https://drive.google.com/open?id=1ph-QXnQLWPVXCDVtM8I51r8Nt0Xojil-CR0fU6cupiU</a></p>                    | <p><b>Details</b><br/> <a href="https://docs.google.com/document/d/1PSjuohvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83tuc/edit?usp=sharing">https://docs.google.com/document/d/1PSjuohvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83tuc/edit?usp=sharing</a> (pp.1-20)</p>  |
| <p><b>Sub Team Discussion:</b> <a href="#">9 January 2019</a></p>  | <p><b>Sub Team Discussion:</b> <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>  | <p><b>Sub Team Discussion:</b> <a href="#">27 February 2019</a></p>   |
| <p><b>Summary of Discussions/Individual Comments</b><br/>                     The AG survey results assist in answering sub questions (a), (b), (c), and (d). The survey data indicate that:</p> <p>(a) Sunrise Period has served its intended</p> | <p><b>Summary of Discussions/Individual Comments</b><br/>                     The previously collected data assist in answering this question, including all of its sub questions (a), (b), (c), (d), (e), and (f).</p> | <p><b>Summary of Discussions/Individual Comments</b><br/>                     The additional data assist in answering the sub question (b), (d), (e), and (f).</p>  |

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| <p>purpose to some extent, but with significant limitations due to hurdles such as pricing, certain registry practice, and lack of transliteration support.</p> <p>(b) Sunrise Period has unintended effects, including negative impacts on registries and registrars, issues of operating Sunrise and Qualified Launch Programs / Approved Launch Programs.</p> <p>(c) While proof of use does not seem to be a major issue, some trademark and brand owner respondents did not submit proof of use due to various reasons.</p> <p>(d) There is abuse of the Sunrise Period by registries documented by trademark and brand owners.</p> <p>The survey data do not assist in answering sub questions (e) and (f).</p> | <p>(a) Sunrise Period has served its intended purpose to some degree, as data provided by Registry Operators shows that brand owners are using the Sunrise Period. Most trademark owner respondents to the INTA Survey made a Sunrise registration and felt the Sunrise Period has mitigated risks to a major or moderate extent. Nevertheless, Analysis Group found that many trademark holders do not utilize the Sunrise Period and the registration rate was low.</p> <p>(b) Sunrise Period has unintended effects for trademark owners who responded to the INTA Survey, such as expenses, reserved names, issues with .sucks/.love, parked domain names. As Sunrise service “operates off the data in the TMCH”, some Sub Team members believe that the confidentiality of the TMCH causes the unintended effect of third parties unable to retrieve information regarding the trademark records in the TMCH.</p> <p>(c) The TMCH Provider is requiring appropriate form of “use”. 96% of the active TMCH records are Sunrise eligible, implying</p> | <p>(b) There are anecdotes about the Sunrise Period having unintended “chilling effect” on legitimate registrants. As Sunrise service “operates off the data in the TMCH”, the unintended effect may be caused by the extent to which common words are already subject to registration in the US, as well as the broad scope of the registrations within the TMCH (including Geographical Indicator and other marks protected by statute or treaties). A long list of dictionary words protected in the TMCH seems to expand the applicability of trademark protections in the domain name space beyond what might be permitted under domestic legal framework (e.g., TMCH treats hundreds of words like “the”, “great”, “cool”, “luxury” as marks).</p> <p>(d-f) There are anecdotes about actual/potential abuses of the Sunrise Period by registrants/trademark owners/registries taking advantage of the TMCH, including:</p> <ol style="list-style-type: none"> <li>1) Someone registered trademarks for relatively low cost specifically in order to get priority for Sunrise (marks were common terms);</li> </ol> |

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|                               | <p>“proof of use” was submitted and went through a validation process. 8% mark records submitted to the TMCH were invalid -- some Trademark owners, TMCH agents, and law firms that responded to the Analysis Group questionnaire felt it was difficult to understand the reason for rejection. Some Sub Team members felt it was problematic that the TMCH does not necessarily require the trademark owners to provide the “evidence of use” for validation.</p> <p>(d) There is abuse of the Sunrise Period by registries documented by trademark owners who responded to the INTA Survey. They reported the discriminatory pricing and unfair business practices related to new gTLDs by registries (e.g., .sucks/.love, reserved names). Regarding abuse by trademark owners, a law firm that responded to the Analysis Group questionnaire suggested that some trademark owners falsely registered generic trademarks in order to acquire premier domains during the Sunrise Period.</p> <p>(e) There is no concrete abuse of the Sunrise Period by trademark owners documented by</p> | <p>2) Someone conducted “Sunrise scavenger scam” to get the first dib on the 300 premium generic domains;</p> <p>3) Someone obtained a trademark for “THE” in order to get first dibs on generic domain names;</p> <p>4) Issues with domains registered by What Box? Holdings, such as luxury.guru, cloud.guru, bet.guru, realestate.guru, wedding.clothing, travel.singles, and finance.holding;</p> <p>5) Plan Bee, LLC, the .build registry used a “questionable” trademark from Switzerland to register domain names in the Sunrise Period;</p> <p>6) RetailMeNot, Inc. registered 849 .codes domain names, under 101Domain registrar, in Sunrise without owning any of the corresponding trademarks;</p> |

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|                               | <p>Registrants. Nevertheless, some Sub Team members believe that trademark owners have the potential to abuse due to TMCH's acceptance of marks that are not standard character claim marks. TMCH has not received any formal disputes from third parties though. Analysis Group's caveated finding about the commonly used words that may have triggered the Claims Notice seem to suggest potential abuse by trademark owners. However, Analysis Group found that "dictionary term" strings were not widely registered by trademark owners during Sunrise, suggesting the lack of abuse.</p> <p>(f) There does not seem to be abuse of the Sunrise Period by trademark owners documented by registries, as SDRPs had little usage according to the Registry Operators that responded to the survey. Nevertheless, Jon Nevett from Donuts seemed to mention that some trademark owners tried to "get through the system", so Donuts made some domain names premium to protect their interest. Some Sub Team members also believe that Donuts' "protected marks list"</p> |                           |

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|   | enables trademark owners to potentially abuse Sunrise.   |   |
| <p><b>QUESTION 1</b><br/>           (a) Should the availability of Sunrise registrations only for identical matches be reviewed?<br/>           (b) If the matching process is expanded, how can Registrant free expression and fair use rights be protected and balanced against trademark rights?</p>   |  |   |
| <p><b>Tentative Answers &amp; Preliminary Recommendations:</b></p> <p><b>Q1(a)</b><br/> <b>Answer:</b> The availability of Sunrise registrations only for identical matches should not be reviewed.</p> <p><b>Q1(b)</b><br/> <b>Answer:</b> The matching process should not be expanded.<br/>           --</p> <p><b>Sub Team Discussions:</b><br/> <a href="#">10 March 2019</a></p> |  |   |
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| <p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b><br/>           TM &amp; Brand Owners tab: cells F9, F55, F66-68, F70-73, F80-81, G18<br/>           Registry - Q29a tab: cell A7</p>   | <p><b>Data (See: <a href="#">Source Tab</a>)</b><br/>           Deloitte Reponses: Questions 15-17<br/>           Deloitte Follow Up: Question 6<br/>           Deloitte TMCH Report: Sections 2.1.1., 2.1.2, 2.2.1.2., 2.3.1<br/>           Analysis Group Report: pp.3, 25-26, 28-29, 37-38, 65-67, Appendix I</p> | <p><b>Data</b></p> <ul style="list-style-type: none"> <li>• <a href="#">How one guy games new gTLD sunrise periods</a></li> <li>• <a href="#">Fake Trademarks Stealing Generic Domains In New gTLD Sunrises</a></li> <li>• <a href="#">The Trademark ClearingHouse Worked So Well One Company Got 24 new gTLD using The Famous Trademark "The"</a></li> <li>• <a href="#">Is The Trademark Clearinghouse Causing</a></li> </ul> |



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|  |  | <p><a href="#">New gTLD's To Lose 6X The Number Of Registrations?</a></p> <ul style="list-style-type: none"> <li>• <a href="#">How common words like Pizza, Money, and Shopping ended up in the Trademark Clearinghouse for new TLDs</a></li> <li>• <a href="#">The numbers are in! Donuts sunrises typically get 100+ domains, but they also got gamed</a></li> <li>• <a href="#">.Build Registry Using Questionable Swiss Trademark Registration To Grab "Build" Domains In Sunrise</a></li> <li>• <a href="#">Digging in on Donuts' Sunrise: Amazon tops the list, gaming, and top registrars</a></li> <li>• <a href="#">How Did RetailMeNot Get 849 .Codes Domains In Sunrise Without Any Trademarks?</a></li> <li>• Transcript of F2F RPM WG Meeting June 2017 Johannesburg: <a href="#">Transcript 1</a>, <a href="#">Transcript 2</a> (pp.17, 22-23)</li> <li>• <a href="#">WIPO FAQ on Geographical Indications</a></li> <li>• <a href="#">Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET</a></li> </ul> |
| <p><b>Details</b><br/> <a href="https://docs.google.com/document/d/1J3URFVlhknwU53IZDyF4GMrj-VKnEsgXk2e2Dd0Fc v8/edit?usp=sharing">https://docs.google.com/document/d/1J3URFVlhknwU53IZDyF4GMrj-VKnEsgXk2e2Dd0Fc v8/edit?usp=sharing</a></p> | <p><b>Details</b><br/> <a href="https://drive.google.com/open?id=1Zi5rDXEk_LGMuuRdSgXncOoPVO3vR783yQQ1JYMHqQz 0">https://drive.google.com/open?id=1Zi5rDXEk_LGMuuRdSgXncOoPVO3vR783yQQ1JYMHqQz 0</a></p> | <p><b>Details</b><br/> <a href="https://docs.google.com/document/d/1PSjuo hvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83t uc/edit?usp=sharing">https://docs.google.com/document/d/1PSjuo hvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83t uc/edit?usp=sharing</a> (pp.1-20)</p>   |

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| <p><b>Sub Team Discussion:</b> <a href="#">16 January 2019</a></p>  | <p><b>Sub Team Discussion:</b> <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>  | <p><b>Sub Team Discussion:</b> <a href="#">27 February 2019</a></p>   |
| <p><b>Summary of Discussions/Individual Comments</b></p> <p>While the AG survey results do not substantially assist in answering this question, trademark and brand owners’ responses somewhat assisted answering its sub question (a), indicating the availability of Sunrise registration should not be only for identical matches due to IDN issues and other factors. Nevertheless, the survey results do not suggest an opinion as whether to expand the matching criteria or not.</p> <p>The survey data do not assist in answering sub question (b).</p> | <p><b>Summary of Discussions/Individual Comments</b></p> <p>The previously collected data assist in answering the sub question (a), indicating that the availability of Sunrise registration only for identical matches may need to be reviewed.</p> <p>Trademark owner, TMCH agent, and law firm respondents to Analysis Group’s questionnaire felt limited by Sunrise registrations being forced to be exact matches; some concern was expressed by registries, registrars, and trademark owners about the associated cost with expanding the matching criteria.</p> <p>Deloitte TMCH Report indicates relatively few abused labels, suggesting limited current usage of “expanded match” via abused labels. Deloitte TMCH Report also indicates the doubled amount of domain names/labels derived from the trademark records, implying</p> | <p><b>Summary of Discussions/Individual Comments</b></p> <p>The additional data assist in answering the sub question (a).</p> <p>As Sunrise service “operates off the data in the TMCH”, the extent to which common words are already subject to registration in the US, the broad scope of registration within the TMCH (including Geographical Indicator and other marks protected by statute or treaties), as well as anecdotes about actual/potential abuses of Sunrise by registrants/trademark owners/registries taking advantage of the TMCH may be a factor to consider in the Working Group’s discussion of the availability of Sunrise registrations only for identical matches (e.g. question about expanding match criteria). The expanded match issues raised by Maxim Alzoba and information shared by Amadeu Abril i Abril during the June 2017 Johannesburg meeting may also be relevant.</p> |

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|                               | <p>that there is already “expansion” of matches. Deloitte has not received any complaints regarding the Sunrise eligibility requirements and its verification process.</p> <p>Opposite to expansion, Registry Operators have the capability to limit registration by goods and services based on the SMD file. Due to the acceptance of design marks into the TMCH, there may be issues even for identical matches in Sunrise.</p> <p>In an analogous sense, Analysis Group’s analysis of expanding matching criteria pertaining to the Trademark Claims service may be relevant. Analysis Group believes that expanding the matching criteria may be of limited benefit to trademark owners and may be associated with costs incurred by registries and registrars, as well as potential deterrence to good-faith registration and increased abandonment rate. Nevertheless, Analysis Group did not conduct a concrete cost-benefit analysis of expanding the matching criteria; their analysis also did not include variations such as goods or services sold by trademark holders.</p> |                           |

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|  | The previously collected data do not assist in answering the sub question (b). |                           |
| <p><b>QUESTION 2</b><br/>                     (Threshold question: Is Registry pricing within the scope of the RPM WG or ICANN's review?)<br/>                     (a) Does Registry Sunrise or Premium Name pricing practices unfairly limit the ability of trademark owners to participate during Sunrise?<br/>                     (b) If so, how extensive is this problem?</p>  |  |                           |
| <p><b>Tentative Answers &amp; Preliminary Recommendations:</b></p> <p><b>Q2(a)</b><br/> <b>Answer:</b> The Sub Team generally agreed that Registry Sunrise or Premium Name pricing<sup>1</sup> practices limit the ability of trademark owners to participate during Sunrise. However, based on the limited data and due to subjectivity concerns, the Sub Team could not determine whether the Premium Name pricing practices “unfairly” limit the ability of trademark owners.</p> <p><b>Recommendation:</b> The Sub Team acknowledges that pricing issues are not within the scope of this PDP. The Sub Team suggests that the Working Group communicate the pricing concerns that have been identified to the SubPro PDP Working Group, and ask the SubPro Working Group for their views regarding pricing discrimination referenced in the Registry Agreement (e.g., Specification 11, Sections 2.10c, 3c). Information and insight from the SubPro Working Group may assist the RPM Working Group in developing a potential policy recommendation on this topic.</p> <p><b>Q2(b)</b><br/> <b>Answer:</b> The Sub Team noted this problem seems sufficiently extensive that it may require a recommendation to address it, although the data is limited. The Sub Team also noted that pricing is outside the picket fence. The Sub Team made a recommendation (see below) on the basis that, as a result of a Registry Operator’s way of operating its TLD that circumvents the mandatory RPMs, brand owners will be more likely to</p> |  |                           |

<sup>1</sup> **Premium Name:** second level domain names that are offered for registration that, in the determination of the registry, are more desirable for the purchaser. **Premium Pricing:** second level domain names that are offered for registration, that in the determination of the registry are more desirable for the purchaser, and will command a price that is higher than a non-premium name.

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| <p>seek enforcement via the Public Interest Commitments Dispute Resolution Procedure (PIC DRP) instead of relying on ICANN's Contractual Compliance department.</p> <p><b>Recommendation:</b> The Sub Team recommends that the Registry Agreement include a provision stating that a Registry Operator shall not operate its TLD in such a way as to have the effect of circumventing the mandatory RPMs imposed by ICANN or restricting brand owners' reasonable use of the Sunrise rights protection mechanism.</p> <p>--</p> <p><b>Sub Team Discussions:</b><br/> <a href="#">11 March 2019</a>, <a href="#">27 March 2019</a></p> |   |                           |
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| <p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b><br/>                     TM &amp; Brand Owners tab: cells F19-26, D-G19-20, D-F21-22, D-F25<br/>                     Registries &amp; Registrars tab: cells F12, F14-15<br/>                     Registry - Q7 tab<br/>                     TM Owner - Q27 tab: cell A41</p>   | <p><b>Data (See: <a href="#">Source Tab</a>)</b><br/>                     Registry Operator Responses: pp.1-2<br/>                     Analysis Group Report: pp.35, 38, 65<br/>                     INTA Survey: pp.14, 48, 50, 52, 58-59<br/>                     ICANN61 Transcript: pp.9-13, 19, 21</p> | Not Applicable            |
| <p><b>Details</b><br/> <a href="https://docs.google.com/document/d/1uwNtzemdC65DWMcVkJ2HfWFIHyCvtJzqMgaarLn2nsM/edit?usp=sharing">https://docs.google.com/document/d/1uwNtzemdC65DWMcVkJ2HfWFIHyCvtJzqMgaarLn2nsM/edit?usp=sharing</a></p>  | <p><b>Details</b><br/> <a href="https://drive.google.com/open?id=1k8SXcZR SzluqAVkTxYJL63qbBt_A8e9vzNdoKJp8tFc">https://drive.google.com/open?id=1k8SXcZR SzluqAVkTxYJL63qbBt_A8e9vzNdoKJp8tFc</a></p>  | Not Applicable            |
| <p><b>Sub Team Discussion:</b> <a href="#">16 January 2019</a></p>  | <p><b>Sub Team Discussion:</b> <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>  | Not Applicable            |

## Summary Table of Final Agreed Sunrise Questions, Data & Discussions

*Draft as of 16 April 2019 - Prepared by ICANN staff for use by the Sunrise Sub Team*

| ANALYSIS GROUP SURVEY RESULTS  | DATA PREVIOUSLY COLLECTED  | ADDITIONAL DATA SUBMITTED |
|--|--|---------------------------|
| <p><b>Summary of Discussions/Individual Comments</b><br/>                     The AG survey results assist in answering this question, including both of its sub questions (a) and (b).</p> <p>(a) The disparate pricing between Sunrise and General Availability was a clear factor that limited the ability of the majority of trademark and brand owner survey respondents to participate during Sunrise.</p> <p>(b) This problem seems extensive among the trademark and brand owner survey respondents.</p> | <p><b>Summary of Discussions/Individual Comments</b><br/>                     The previously collected data assist in answering this question, including both of its sub questions (a) and (b):</p> <p>(a) Premium Name pricing, discriminatory pricing, or Registry’s unfair business practices related to gTLDs limited the ability of many trademark owner, who responded to the INTA Survey, to participate during Sunrise. Analysis Group received similar feedback on the premium pricing from registrars, trademark owners, TMCH agents, and law firms. Trademark owner respondents to Analysis Group questionnaire were also concerned that their trademarked strings may be on the premium list, but they did not have access to a sufficient number of premium lists to test the hypothesis. Nevertheless, Analysis Group did not have enough data to analyze the disparate pricing between Sunrise and General Availability.</p> <p>In addition, PIR, Donuts, and AFNIC provided the average number of Sunrise registration per TLD; Donuts’ average price is \$100/TLD</p> | <p>Not Applicable</p>     |

## Summary Table of Final Agreed Sunrise Questions, Data & Discussions

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|---|--|---------------------------|
|   | <p>and 98% of the time Donut’s price is standard. Related, Donuts’ DPML Plus also has premium pricing that does not permit overrides of blocking.</p> <p>(b) This problem seems extensive among the trademark owner respondents to the INTA Survey and Analysis Group questionnaire.</p> |                           |
| <p><b>QUESTION 3</b></p> <p>(a) Should Registry Operators be required to create a mechanism that allows trademark owners to challenge the determination that a second level name is a Premium Name or Reserved Name?</p> <p>(b) Additionally, should Registry Operators be required to create a release mechanism in the event that a Premium Name or Reserved Name is challenged successfully, so that the trademark owner can register that name during the Sunrise Period?</p> <p>(c) What concerns might be raised by either or both of these requirements?</p>   |  |                           |
| <p><b>Tentative Answers &amp; Preliminary Recommendations:</b></p> <p><b>Q3(a)-(b)</b></p> <p><b>Answer:</b> ICANN Org should establish a uniform mechanism that allows trademark owners to challenge a determination by a Registry Operator that a second level name is a "Premium Name" or a "Reserved Name"<sup>2</sup> during the Sunrise Period. ICANN Org should require Registry Operators to create a release mechanism in the event that a Premium Name or Reserved Name is challenged successfully, so that the trademark owner can register that name during the Sunrise Period.</p> <p><b>Recommendation:</b> The Sub Team recommends that ICANN Org establish a uniform mechanism to allow trademark owners to challenge a Registry Operator’s determination that a second level name is a “Premium Name” or “Reserved Name”. The Sub Team recommends,</p> |  |                           |

<sup>2</sup> **Reserved Name:** second level domain names that are withheld from registration per written agreement between the registry and ICANN. (See Section 2.6 and Specification 5 in the base Registry Agreement.)

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|-------------------------------|---------------------------|---------------------------|

further, that the following Implementation Guidance guide the Implementation Review Team (IRT), which will be created to implement approved policy recommendations from this PDP:

- The mechanism could be a component of an enhanced Sunrise Dispute Resolution Procedure (SDRP), where the challenger brings the issue to the Registry Operator first via a formal process within the registry, with the possibility of an appeal to a neutral third party if the initial direct registry interaction does not result in the desired outcome for the challenger.
- If the challenger ultimately prevails, the Registry Operator would be required to change the designation of the domain name at issue such that it is no longer identified as a "Premium Name" or a "Reserved Name" and becomes available for registration by the challenger.
- As part of the proposed challenge mechanism, a defense, or ground for denying the challenge, should be that the registry must continue designating a certain name as "reserved" to comply with other ICANN policies or applicable law or due to other reasonable justifications.
- The IRT should consider building carve-outs/caveats into the suggested challenge mechanism. The challenge mechanism is not an absolute/automatic challenge; it should include the legitimate grounds for the Premium Name designation or Reserved Name status.
- To avoid overcomplication, the IRT should consider restricting the challenge mechanism to unique non-dictionary trademarks that are recorded in the Trademark Clearinghouse, and/or consider placing a numeric limit on the number of Reserved Names challenged by a trademark owner.
- The IRT should consider modeling the challenge mechanism after the Passive Holding doctrine developed in Uniform Domain Name Dispute Resolution Policy (UDRP) jurisprudence, with clear definitions to prevent potential misinterpretation by the panelists.

### Q3(c)

**Answer:** One Sub Team member noted that Registry Operators may be concerned that any change to the Reserved list will affect their ability to run the required real-time platforms. This may subsequently result in unpredictable consequences, including: violating applicable law/ICANN policies, raising security and stability concerns, undermining Spec 11, rendering the reserved GEO TLDs ineffective. The Sub Team member also noted that Registry Operators may have concerns about gaming by trademark owners and the number of challenges brought by multiple trademark owners that registries have difficulty handling.

Another Sub Team member noted the concern that the suggested challenge mechanism may be of little/infrequent use due to the subjectivity, complications, and expense, as well as potentially fewer domain name applications in the next round of TLDs.



# Summary Table of Final Agreed Sunrise Questions, Data & Discussions

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|-------------------------------|---------------------------|---------------------------|
|-------------------------------|---------------------------|---------------------------|

**Recommendation:** The Sub Team recommends that the RPM Working Group refer the following question to the SubPro Working Group: would it be feasible to recommend that the names recorded in the TMCH either cannot be designated premium or can be designated premium at a certain price ceiling as an exception to ICANN’s position about pricing?

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**Individual Proposal [#10](#)**

**Question A: Should the Sub Team recommend that the full WG consider including this Individual Proposal in the Initial Report for the solicitation of public comment?**

**Answer:** TBD

**Question B: In light of the Individual Proposal, are any modifications to the current “tentative answers & preliminary recommendations” needed?**

**Answer:** There are suggested modifications to the current “tentative answers & preliminary recommendations”.

One Sub Team member suggested that the distinction between fanciful/famous marks and generic words needs to be taken into account when the challenge mechanism is being developed.

The same Sub Team member noted the concerns about the potential subjectivity of the challenge mechanism and the time needed to develop a formal process that adjudicates on various issues/standards and guards against abuse. Instead of a formal process, this Sub Team member suggested creating a less formal challenge mechanism to allow trademark holders, who have registered marks in the TMCH, to contact the registry operators directly about the designation of a Premium Name or Reserved Name. As a “best practice”, registries should have clearly defined contact information/contact person to facilitate the communication between registries and trademark owners. Nevertheless, some other Sub Team members had concerns about a soft, informal challenge mechanism and believed that a more substantive proposal needs to be developed in order to effectively solicit public comment.

One Sub Team member suggested replicating DRPs for such challenge mechanism, but without elaboration on what DRP.

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|-------------------------------|---------------------------|---------------------------|

One Sub Team member suggested getting input from ICANN Compliance regarding whether any existing language in the Registry Agreement could enable Compliance to get involved when trademark owners would like to challenge the designation of a Premium Name or Reserved Name. However, another Sub Team member believed it may not be helpful to solicit input from Compliance, as pricing is outside the picket fence, and Compliance can only enforce the contract between ICANN and registries/registrar, as well as policies related to the contract.

**Question C: Should any additional Sub Team recommendations be made in relation to the agreed Sunrise charter question?**

**Answer:** Sub Team members proposed additional preliminary recommendations in relation to the agreed Sunrise charter question.

- As a best practice, the Sub Team recommends that Registry Operators consider maintaining consistency of Sunrise pricing for the duration of the Sunrise registration period in a TLD.
- The Sub Team recommends that registries should be able to verify the identity of trademark owners who claim that their marks are recorded in the TMCH as well as the existence of the relevant trademarks.
- The Sub Team recommends that appropriate safeguards be established as a matter of ICANN policy, so that registry operators will have clear guidelines to ascertain that they are dealing with enquiries from legitimate trademark owners who have recorded trademarks in the TMCH and who are seeking to register a domain name during an applicable Sunrise period to protect their business/interests.

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**Sub Team Discussions:**

[27 March 2019](#), [3 April 2019](#), [10 April 2019](#)

| ANALYSIS GROUP SURVEY RESULTS   | DATA PREVIOUSLY COLLECTED  | ADDITIONAL DATA SUBMITTED |
|---|--|---------------------------|
| <b>Data (See: <a href="#">Survey Analysis Tool</a>)</b><br>TM & Brand Owners tab: cells D-F 34-37<br>Registries & Registrars tab: cells D-F 17-19 | <b>Data (See: <a href="#">Source Tab</a>)</b><br>Analysis Group Report: p.65<br>INTA Survey: pp.53, 60<br>ICANN61 Transcript: pp.11-21 | Not Applicable            |
| <b>Details</b><br><a href="https://docs.google.com/document/d/1dxPb">https://docs.google.com/document/d/1dxPb</a>                                 | <b>Details</b>   | Not Applicable            |

## Summary Table of Final Agreed **Sunrise** Questions, Data & Discussions

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|---|---|---------------------------|
| <a href="https://docs.google.com/document/d/e4gApZO6USTfDI-xMp3lleS7hlxozX_0ad_xfl8/edit?usp=sharing">e4gApZO6USTfDI-xMp3lleS7hlxozX_0ad_xfl8/edit?usp=sharing</a>  | <a href="https://drive.google.com/open?id=10npR7b6WWJZ6J20583GNq2OLM4jBp-sS-Yeq564GwM">https://drive.google.com/open?id=10npR7b6WWJZ6J20583GNq2OLM4jBp-sS-Yeq564GwM</a>   |                           |
| <b>Sub Team Discussion:</b> <a href="#">16 January 2019</a>   | <b>Sub Team Discussion:</b> <a href="#">6 February 2019</a> , <a href="#">13 February 2019</a> , <a href="#">20 February 2019</a> , <a href="#">27 February 2019</a>  | Not Applicable            |
| <p><b>Summary of Discussions/Individual Comments</b><br/>Some Sub Team members believe the trademark and brand owners’ responses assist in answering all of its sub questions (a), (b), and (c). Trademark and brand owner respondents believe that:</p> <p>(a) Registry Operators should be required to create a mechanism that allows trademark owners to challenge the determination that a second level name is a Premium Name or Reserved Name.</p> <p>(b) Registry Operators should be required to create a release mechanism in the event that a Premium Name or Reserved Name is challenged successfully, so that the trademark owner can register that name during the Sunrise Period.</p> | <p><b>Summary of Discussions/Individual Comments</b><br/>The previously collected data assist in answering the sub questions (a) and (b):</p> <p>(a) Responses from trademark owner to the Analysis Group questionnaire suggest that Registry Operators should be required to create a mechanism that allows trademark owners to challenge the determination that a second level name is a Premium Name or Reserved Name. Suggested mechanisms include setting a limit on how many trademarked strings could be placed on reserved and premium lists; Acceptable Use policies at the registry level may also be relevant.</p> | Not Applicable            |

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|--|---|---------------------------|
| <p>(c) The concerns that might be raised by these requirements include that registries might have less flexibility in terms of what names they can reserve.</p>  | <p>Tangentially related, Donuts' DPML Plus also has premium pricing that does not permit overrides of blocking.</p> <p>(b) Responses from trademark owners gathered via the Analysis Group questionnaire and INTA Survey suggest that Registry Operators should be required to create a release mechanism in the event that a Premium Name or Reserved Name is challenged successfully.</p> <p>The previously collected data do not assist in answering the sub question (c).</p> |                           |
| <p><b>QUESTION 4</b></p> <p>(a) Are Registry Operator Reserved Names practices unfairly limiting participation in Sunrise by trademark owners?</p> <p>(b) Should Section 1.3.3 of Specification 1 of the Registry Agreement be modified to address these concerns?</p> <p>(c) Should Registry Operators be required to publish their Reserved Names lists -- what Registry concerns would be raised by that publication, and what problem(s) would it solve?</p> <p>(d) Should Registry Operators be required to provide trademark owners in the TMCH notice, and the opportunity to register, the domain name should the Registry Operator release it – what Registry concerns would be raised by this requirement?</p> |   |                           |
| <p><b>Tentative Answers &amp; Preliminary Recommendations:</b></p> <p><b>Q4(a)</b><br/><b>Answer:</b> TBD</p>  |   |                           |

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|-------------------------------|---------------------------|---------------------------|

Q4(b)

**Answer:** TBD

Q4(c)

**Answer:** TBD

Q4(d)

**Answer:** TBD

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**Individual Proposal [#11](#)**

**Question A: Should the Sub Team support recommending that the full WG consider including this Individual Proposal in the Initial Report for the solicitation of public comment?**

**Answer:** TBD

One Sub Team member was concerned that this proposal would not be perceived well by contracted parties as it may be perceived as an attempt to get around pricing/picket fence issues. This Sub Team member also suggested that some “security agency” would already be protecting the public interest related to GEO TLDs, for example, so obligatory Public Interest Commitments (PICs) may not be necessary. However, another Sub Team member believed that the Sub Team could put forward a recommendation pertaining to the abusive/discriminatory pricing-related provisions in the Registry Agreement.

One Sub Team member noted concerns that the proposed obligatory PICs or other contractual provisions may be highly subjective and potentially abused by trademark owners. The same Sub Team member also noted the concerns about the time needed to develop a formal process that adjudicates on various issues/standards and guards against abuse. The proponent was less concerned about the abuse issue. The proponent also noted that one should avoid over-engineering to address the subjectivity issue.

One Sub Team member supported the proposal but suggested developing standards or a test that involves a level of granularity.

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| ANALYSIS GROUP SURVEY RESULTS   | DATA PREVIOUSLY COLLECTED  | ADDITIONAL DATA SUBMITTED |
|---|--|---------------------------|
| <p><b><u>Question B: In light of the Individual Proposal, are any modifications to the current “tentative answers &amp; preliminary recommendations” needed?</u></b></p> <p><b>Answer:</b> TBD</p> <p><b><u>Question C: Should any additional Sub Team recommendations be made in relation to the agreed Sunrise charter question?</u></b></p> <p><b>Answer:</b> TBD</p> <p>--</p> <p><b>Sub Team Discussions:</b><br/> <a href="#">10 April 2019</a></p> |  |                           |
| ANALYSIS GROUP SURVEY RESULTS   | DATA PREVIOUSLY COLLECTED  | ADDITIONAL DATA SUBMITTED |
| <p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b><br/>                     TM &amp; Brand Owners tab: cells D-F34-37, F37-43<br/>                     Registries &amp; Registrars tab: cells D-F17-19, F23-25, G20-22<br/>                     Registrar - Q8 tab</p>  | <p><b>Data (See: <a href="#">Source Tab</a>)</b><br/>                     Registry Operator Responses: pp.4-5<br/>                     Analysis Group Report: pp.35, 65</p>                          | Not Applicable            |
| <p><b>Details</b><br/> <a href="https://docs.google.com/document/d/1-rpRnMArtFoS8_6Sx99aBY3FAJRWhfyPY-bc6CR6DI/edit?usp=sharing">https://docs.google.com/document/d/1-rpRnMArtFoS8_6Sx99aBY3FAJRWhfyPY-bc6CR6DI/edit?usp=sharing</a></p>  | <p><b>Details</b><br/> <a href="https://drive.google.com/open?id=1ecm9e0jiA6dPsUcACNIHOLgFD5tZPgU3PzF3WtDOdqY">https://drive.google.com/open?id=1ecm9e0jiA6dPsUcACNIHOLgFD5tZPgU3PzF3WtDOdqY</a></p> | Not Applicable            |
| <p><b>Sub Team Discussion:</b> <a href="#">16 January 2019</a></p>  | <p><b>Sub Team Discussion:</b> <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>                             | Not Applicable            |

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|--|---|---------------------------|
| <p><b>Summary of Discussions/Individual Comments</b><br/>                     The AG survey results assist in answering this question, including all of its sub questions (a), (b), (c), and (d).</p> <p>(a) Trademark and brand owner respondents believe that Registry Operator Reserved Names practice limited their participation in Sunrise.</p> <p>(b) Section 1.3.3. Of Specification 1 of the Registry Agreement may require modification if a Registry Operator is required to create a formal challenge mechanism that allows the release of the successfully challenged Premium Name or Reserved Name to eligible brand owner trademark owners.</p> <p>(c) Trademark and brand owner respondents overwhelming support the publication of Reserved Names lists by Registry Operators; this would reduce the limitation of trademark and brand owners participating in Sunrise. Registry Operator respondents do not support this idea. Registry Operator respondents are mainly concerned with the revelation of competitive data; other concerns, not reflected in the survey data, include potential breach of ICANN or Registry</p> | <p><b>Summary of Discussions/Individual Comments</b><br/>                     The previously collected data assist in answering the sub question (a).</p> <p>From Registry Operators’ point of view, their Reserved Names practices do not seem to unfairly limiting participation in Sunrise by trademark owners. Donuts reported that all their SLDs are available for registration except for the required ICANN reserved list, a handful of super premium labels, and those that mark holders purchased blocking services for. Nevertheless, some trademark owner respondents to the Analysis Group questionnaire were concerned that their trademarked strings may be on the reserved list, but they did not have access to a sufficient number of reserved lists to test the hypothesis.</p> <p>The previously collected data do not assist in answering the sub questions (b), (c), and (d).</p> | <p>Not Applicable</p>     |

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|---|---|---------------------------|
| <p>policies. Nevertheless, some Registry Operator respondents seem to provide the Reserved Names lists to Registrars.</p> <p>(d) Trademark and brand owner respondents overwhelming support the idea that Registry Operators be required to provide trademark owners in the TMCH notice, and the opportunity to registry the domain name should the Registry Operator release it. A majority of Registry Operator respondents do not support this idea. Registrar respondents have mixed views.</p>   |   |                           |
| <p><b>QUESTION 5(a)</b><br/>           Does the current 30-day minimum for a Sunrise Period serve its intended purpose, particularly in view of the fact that many Registry Operators actually ran a 60-day Sunrise Period?<br/>           (i) Are there any unintended results?<br/>           (ii) Does the ability of Registry Operators to expand their Sunrise Periods create uniformity concerns that should be addressed by this WG?<br/>           (iii) Are there any benefits observed when the Sunrise Period is extended beyond 30 days?<br/>           (iv) Are there any disadvantages?</p> |   |                           |
| ANALYSIS GROUP SURVEY RESULTS   | DATA PREVIOUSLY COLLECTED   | ADDITIONAL DATA SUBMITTED |
| <p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b><br/>           TM &amp; Brand Owners tab: cells F28-32, G28<br/>           Registries &amp; Registrars tab: cells F41, G41-42, H41<br/>           Registry &amp; Registrar - Q15 &amp; Q4f tab: cells B10-14, B22-27</p>   | <p><b>Data (See: <a href="#">Source Tab</a>)</b><br/>           Analysis Group Report: p.37<br/>           INTA Survey: pp.15, 51, 59<br/>           ICANN61 Transcript: pp.25-37</p> | Not Applicable            |



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|---|--|---------------------------|
| Registry Q16/Registrar Q4g tab: cells D26-34<br>Registrar - Q4h tab: cells B5-7, C5-7, E8, F8   |  |                           |
| <b>Details</b><br><a href="https://docs.google.com/document/d/1cHtWXXy9jh5JsoieFE7VinddaWvGTlaAE58E4ujn_ao/edit?usp=sharing">https://docs.google.com/document/d/1cHtWXXy9jh5JsoieFE7VinddaWvGTlaAE58E4ujn_ao/edit?usp=sharing</a>   | <b>Details</b><br><a href="https://drive.google.com/open?id=1eyuNzBmNDwoZeTd5_y4-WYM7aW3xHdKd0e5QuDAAEck">https://drive.google.com/open?id=1eyuNzBmNDwoZeTd5_y4-WYM7aW3xHdKd0e5QuDAAEck</a>  | Not Applicable            |
| <b>Sub Team Discussion:</b> <a href="#">19 December 2018</a> , <a href="#">2 January 2019</a> , <a href="#">9 January 2019</a>  | <b>Sub Team Discussion:</b> <a href="#">6 February 2019</a> , <a href="#">13 February 2019</a> , <a href="#">20 February 2019</a> , <a href="#">27 February 2019</a>   | Not Applicable            |
| <b>Summary of Discussions/Individual Comments</b><br>The AG survey results assist in answering this question, including all of its sub questions (i), (ii), (iii), and (iv). The survey data indicate that:<br><br>(a) The current 30-day minimum for a Sunrise Period seems to generally serve its intended purpose.<br><br>(i) There are unintended results, including negative impacts on both Registry Operators and Registrars, issues for GEO TLDs, and confusion about the two types of Sunrise periods. | <b>Summary of Discussions/Individual Comments</b><br>The previously collected data assist in answering this question, including its sub questions (iii) and (iv).<br><br>(a) The current 30-day minimum for a Sunrise Period seems to generally serve its intended purpose. A majority of INTA Survey respondents felt that Sunrise Period has helped mitigate risks to a major or moderate extent; the other mechanisms do not seem that effective. | Not Applicable            |

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|--|--|---------------------------|
| <p>(ii) The uniformity concerns with regard to Registry Operators' ability to expand their Sunrise Periods should be addressed to increase customer understanding and provide appropriate notice to brand owners.</p> <p>(iii) When the Sunrise Period is extended beyond 30 days, there are benefits to brand owners, and maybe some Registrars whose revenues would increase / risks would decrease.</p> <p>(iv) When the Sunrise Period is extended beyond 30 days, there are disadvantages to some Registry Operators and Registrars, including additional cost burdens or delay in revenue streams. Nevertheless, most Registry Operators have already run a 60-day end-date Sunrise, so the additional burdens may not be significant.</p> | <p>(iii) There may be benefit when the Sunrise Period is extended beyond 30 days, as some trademark owner respondents to the INTA Survey commented that the Sunrise Period is too short.</p> <p>(iv) One disadvantage of having a longer Sunrise might be that it would not result in more trademark owners registering, according to the Analysis Group findings.</p> <p>The previously collected data do not assist in answering the sub questions (i) and (ii).</p> |                           |
| <p><b>QUESTION 5(b)</b><br/>                     In light of evidence gathered above, should the Sunrise Period continue to be mandatory or become optional?<br/>                     (i) Should the WG consider returning to the original recommendation from the IRT and STI of Sunrise Period OR Trademark Claims in light of other concerns, including freedom of expression and fair use?<br/>                     (ii) In considering mandatory vs optional, should Registry Operators be allowed to choose between Sunrise and Claims (that is, make ONE mandatory)?</p>  |  |                           |
| ANALYSIS GROUP SURVEY RESULTS  | DATA PREVIOUSLY COLLECTED  | ADDITIONAL DATA SUBMITTED |

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| ANALYSIS GROUP SURVEY RESULTS  | DATA PREVIOUSLY COLLECTED   | ADDITIONAL DATA SUBMITTED   |
|--|---|---|
| <p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b><br/>           TM &amp; Brand Owners tab: cells D-F14, D-F17, F28-32, D-F84-85, G28<br/>           Registries &amp; Registrars tab: cells D-F30-31, D-F79-80, F41, F50-52, G41-42, H41<br/>           Registry &amp; Registrar - Q15 &amp; Q4f tab: cells B10-14, B22-27<br/>           Registry Q16/Registrar Q4g tab: cells D26-34<br/>           Registrar - Q4h tab: cells B5-7, C5-7, E8, F8<br/>           Registry - Q29 tab</p> | <p><b>Data (See: <a href="#">Source Tab</a>)</b><br/>           Registry Operator Responses: p.1 (Question A)<br/>           Analysis Group Report: pp.3, 6, 16, 18, 34-35, 38, 65-66<br/>           INTA Survey: pp.15, 31, 51<br/>           Staff Summary: p.6 (Chart 7)<br/>           ICANN61 Transcript: p.11</p> | <p><b>Data</b></p> <ul style="list-style-type: none"> <li>● <a href="#">How one guy games new gTLD sunrise periods</a></li> <li>● <a href="#">Fake Trademarks Stealing Generic Domains In New gTLD Sunrises</a></li> <li>● <a href="#">The Trademark ClearingHouse Worked So Well One Company Got 24 new gTLD using The Famous Trademark “The”</a></li> <li>● <a href="#">Is The Trademark Clearinghouse Causing New gTLD’s To Lose 6X The Number Of Registrations?</a></li> <li>● <a href="#">How common words like Pizza, Money, and Shopping ended up in the Trademark Clearinghouse for new TLDs</a></li> <li>● <a href="#">The numbers are in! Donuts sunrise typically get 100+ domains, but they also got gamed</a></li> <li>● <a href="#">Digging in on Donuts’ Sunrise: Amazon tops the list, gaming, and top registrars</a></li> <li>● <a href="#">.Build Registry Using Questionable Swiss Trademark Registration To Grab “Build” Domains In Sunrise</a></li> <li>● <a href="#">How Did RetailMeNot Get 849 .Codes Domains In Sunrise Without Any Trademarks?</a></li> <li>● <a href="#">WIPO FAQ on Geographical Indications</a></li> <li>● Transcript of F2F RPM WG Meeting June 2017 Johannesburg: <a href="#">Transcript 1</a> (p.37), <a href="#">Transcript 2</a></li> </ul> |

## Summary Table of Final Agreed **Sunrise** Questions, Data & Discussions

*Draft as of 16 April 2019 - Prepared by ICANN staff for use by the Sunrise Sub Team*

| ANALYSIS GROUP SURVEY RESULTS  | DATA PREVIOUSLY COLLECTED   | ADDITIONAL DATA SUBMITTED  |
|--|---|--|
|  |   | <ul style="list-style-type: none"> <li>• <a href="#">Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET</a></li> </ul>   |
| <p><b>Details</b><br/> <a href="https://docs.google.com/document/d/1t_R-Ceo_aTnb3zl6AZw4kYJVJfClvCkIMGBxViEo8o/edit?usp=sharing">https://docs.google.com/document/d/1t_R-Ceo_aTnb3zl6AZw4kYJVJfClvCkIMGBxViEo8o/edit?usp=sharing</a></p>   | <p><b>Details</b><br/> <a href="https://drive.google.com/open?id=1FMnziYZo0vZdgLVS89wtCQ4Cb5J9tkM_D17r7eCGEMU">https://drive.google.com/open?id=1FMnziYZo0vZdgLVS89wtCQ4Cb5J9tkM_D17r7eCGEMU</a></p>  | <p><b>Details</b><br/> <a href="https://docs.google.com/document/d/1PSjuohvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83tuc/edit?usp=sharing">https://docs.google.com/document/d/1PSjuohvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83tuc/edit?usp=sharing</a> (pp.1-20)</p>   |
| <p><b>Sub Team Discussion:</b> <a href="#">16 January 2019</a></p>   | <p><b>Sub Team Discussion:</b> <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>  | <p><b>Sub Team Discussion:</b> <a href="#">27 February 2019</a></p>  |
| <p><b>Summary of Discussions/Individual Comments</b><br/>                     The AG survey results assist in answering this question, including both of its sub questions (i), (ii).<br/><br/>                     (b) Trademark and brand owner respondents think the Sunrise Period should continue to be mandatory.<br/><br/>                     (i) There seems to be a need for the WG to consider returning to the original recommendation from the IRT and STI, as there are concerns with the implementation of ALP and QLP, particularly as relevant for GEO TLDs (eg., issues with notice on ALP, allowed number of GEO TLD domain strings</p> | <p><b>Summary of Discussions/Individual Comments</b><br/>                     The previously collected data assist in answering this question, including both of its sub questions (i) and (ii).<br/><br/>                     (b) Analysis Group findings (e.g., low dispute rate, lack of interests among registries/registrars/TMCH agents) seem to indicate that the Sunrise Period does not need to continue being mandatory. Blocking services such as DPML and DPML Plus seem to suggest that Sunrise might not be necessary, although not every registry offers blocking mechanisms. While PIR and Donuts</p> | <p><b>Summary of Discussions/Individual Comments</b><br/>                     As Sunrise service “operates off the data in the TMCH”, the extent to which common words are already subject to registration in the US, the broad scope of registration within the TMCH (including Geographical Indicator and other marks protected by statute or treaties), as well as anecdotes about actual/potential abuses of Sunrise by registrants/trademark owners/registries taking advantage of the TMCH may be a factor to consider in the Working Group’s discussion of whether the Sunrise Period</p> |

## Summary Table of Final Agreed Sunrise Questions, Data & Discussions

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|--|---|--|
| <p>under QLP).</p> <p>(ii) Registry Operator respondents prefer Sunrise and Claims to be optional, with a slight preference for Sunrise to be mandatory, and Claims to be optional.</p>        | <p>reported low levels of Sunrise registrations, there were 64K Sunrise registrations across 484 gTLDs as of August 2017. Analysis Group found that trademark holders that do register during the Sunrise Period are selective about which Sunrise Periods they utilize. Trademark owner respondents to INTA Survey felt Sunrise was more useful than Claims.</p> <p>(i) There seems to be a need for the WG to consider returning to the original recommendation from the IRT and STI of Sunrise Period OR Trademark Claims, in light of the Analysis Group findings that many trademark holders felt less necessity to utilize the Sunrise Period even though they applied for Sunrise eligibility. Nevertheless, Analysis Group did not conduct a cost-benefit analysis on altering the way the services function.</p> <p>(ii) It seems that Registry Operators should be allowed to choose between Sunrise and Claims, implied by the data mentioned above.</p> | <p>should continue to be mandatory or be optional.</p> <p>Information shared during the June 2017 Johannesburg meeting may also be relevant in answering the sub question (ii): Examples such as Police.Paris, Police.NYC (Geo TLD), Windows.Construction (specialized TLD) may suggest that some Registry Operators should be allowed to choose between Sunrise and Claims.</p> |
| <p><b>QUESTION 6</b></p> <p>(a) What are Sunrise Dispute Resolution Policies (SDRPs), and are any changes needed?</p> <p>(b) Are SDRPs serving the purpose(s) for which they were created?</p> |   |  |

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|---|--|---------------------------|
| (c) If not, should they be better publicized, better used or changed?   |  |                           |
| ANALYSIS GROUP SURVEY RESULTS   | DATA PREVIOUSLY COLLECTED  | ADDITIONAL DATA SUBMITTED |
| Not Applicable  | <b>Data (See: <a href="#">Source Tab</a>)</b><br>Registry Operator Responses: pp.1-2 (Question A)<br>Deloitte Responses: Question 20<br>Deloitte Follow up: Question 2<br>Analysis Group Report: p.66<br>INTA Survey: p.52<br>TLD Startup Tool | Not Applicable            |
| <b>Details (See: <a href="#">Survey Analysis Tool</a>)</b><br><a href="https://docs.google.com/document/d/1fDahBHB3JiMg0EHPZa4h5H_SVXrADKSnsneQe1MIJOA/edit?usp=sharing">https://docs.google.com/document/d/1fDahBHB3JiMg0EHPZa4h5H_SVXrADKSnsneQe1MIJOA/edit?usp=sharing</a> | <b>Details</b><br><a href="https://drive.google.com/open?id=15sQKDNohg3Cp6i35U9Nko3r1R_-fxjLHm4D7antNGtA">https://drive.google.com/open?id=15sQKDNohg3Cp6i35U9Nko3r1R_-fxjLHm4D7antNGtA</a>  | Not Applicable            |
| <b>Sub Team Discussion:</b> <a href="#">16 January 2019</a>   | <b>Sub Team Discussion:</b> <a href="#">6 February 2019</a> , <a href="#">13 February 2019</a> , <a href="#">20 February 2019</a> , <a href="#">27 February 2019</a>   | Not Applicable            |
| <b>Summary of Discussions/Individual Comments</b><br>The AG survey results do not assist in answering this question. However, survey results suggest possible recommendations to solve problems related to Sunrise registration through SDRP.                                 | <b>Summary of Discussions/Individual Comments</b><br>The previously collected data assist in answering this question, including all of its sub questions (a), (b), and (c).  | Not Applicable            |

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| ANALYSIS GROUP SURVEY RESULTS | DATA PREVIOUSLY COLLECTED  | ADDITIONAL DATA SUBMITTED |
|-------------------------------|--|---------------------------|
|                               | <p>(a) Some registries have their SDRP policies linked from the TLD Startup Tool on ICANN.org, but their experience with SDRPs is largely unknown. AFNIC, Donuts, and PIR provided information on their SDRPs; AFNIC had two SDRP disputes while Donuts and PIR had none. Due to the little utilization of SDRPs, changes may be needed for SDRPs to be more well-known, understood, and effective.</p> <p>(b) SDRPs do not seem to serve the purpose(s) for which they were created. Based on Deloitte’s responses, some Sub Team member believe it is a problem when a third party would not receive the Claims Notice on a domain name that has already been registered in Sunrise; this makes it difficult for the third party to challenge the registration. Some Sub Team members believe that the inadequacy of the Claims Notice, as well as the lack of searchable trademark database in certain countries also make the SDRPs ineffective.</p> <p>(c) Some Sub Team members believe that SDRPs should be better publicized, made</p> |                           |

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|--|--|---------------------------|
|  | <p>uniform across all Registry Operators, and enhanced in certain ways (e.g., handle allegations of Sunrise gaming). Some other Sub Team members believe that the TMCH should be opened for review to make SDRP effective. However, a TMCH agent who responded to the Analysis Group questionnaire suggested that the ability to challenge trademarks registered after a TLD's launch should be reduced or eliminated.</p> |                           |
| <p><b>QUESTION 7</b><br/>                     (a) Can SMD files be used for Sunrise Period registrations after they have been canceled or revoked?<br/>                     (b) How prevalent is this as a problem?</p>  |  |                           |
| <p><b>Tentative Answers &amp; Preliminary Recommendations:</b> <span style="background-color: yellow;">[DONE]</span></p> <p><b>Q7(a)</b><br/> <b>Answer:</b> The Sub Team noted that after a SMD file or its underlying trademark record has been canceled or revoked, the SMD file cannot be used for Sunrise Period registrations. However, theoretically, a SMD file might still work for an asynchronous short period of time due to the registry process.</p> <p><b>Q7(b)</b><br/> <b>Answer:</b> The Sub Team agreed that based on the data the problem does not seem to be prevalent. In addition, the Sub Team noted that there are existing mechanisms (e.g., TMCH's own challenge process, Section 1.2.3 of the SDRP) to challenge a trademark record on the basis that it no longer has valid trademark information associated with it.</p> <p>--</p> <p><b>Sub Team Discussions:</b></p> |  |                           |



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|---|---|---------------------------|
| <a href="#">10 March 2019</a>   |   |                           |
| ANALYSIS GROUP SURVEY RESULTS   | DATA PREVIOUSLY COLLECTED   | ADDITIONAL DATA SUBMITTED |
| Not Applicable  | <b>Data (See: <a href="#">Source Tab</a>)</b><br>Registry Responses: Question A<br>Deloitte Responses: Questions 3, 7, 19<br>Deloitte Follow Up: Question 5<br>ICANN61 Transcript: p.16-18  | Not Applicable            |
| <b>Details</b><br><a href="https://docs.google.com/document/d/16aDHl9a5HdStzw0t5RG3xs0kCiRXK5qVr5nHucTXNVs/edit?usp=sharing">https://docs.google.com/document/d/16aDHl9a5HdStzw0t5RG3xs0kCiRXK5qVr5nHucTXNVs/edit?usp=sharing</a> | <b>Details</b><br><a href="https://drive.google.com/open?id=1cbCKnolz u5ok3OS5dLi1Kw6dh0-OHa0cjDo1LEv_K9M">https://drive.google.com/open?id=1cbCKnolz u5ok3OS5dLi1Kw6dh0-OHa0cjDo1LEv_K9M</a>   | Not Applicable            |
| <b>Sub Team Discussion:</b> <a href="#">23 January 2018</a>   | <b>Sub Team Discussion:</b> <a href="#">6 February 2019</a> , <a href="#">13 February 2019</a> , <a href="#">20 February 2019</a> , <a href="#">27 February 2019</a>  | Not Applicable            |
| <b>Summary of Discussions/Individual Comments</b><br>The AG survey results do not assist in answering this question. However, previously collected data from the TMCH (Deloitte) assist in answering this question.               | <b>Summary of Discussions/Individual Comments</b><br>The previously collected data assist in answering this question, including both of its sub questions (a) and (b).<br><br>(a) SMD files cannot be used for Sunrise Period registration after the underlying trademarks have been canceled or revoked. | Not Applicable            |

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|---|--|---------------------------|
|   | <p>According to Registry Operators’ responses, the checks and safeguards implemented by the TMCH prevent any SMD files from being issued to non-qualified parties. Deloitte also stated that the validity of a SMD file is not a reason for dispute with the TMCH.</p> <p>However, some Sub Team members believe that SMD file could still conceivably work if the underlying trademark is invalid. Their rationale includes: there may be a ‘window’ before TMCH’s validation, as the trademark owners need to inform Deloitte that a mark has been cancelled; if there is no change to the information provided by the trademark owner, the SMD file would not be revoked. Nevertheless, it is not really in the registrar’s interest to be using an invalid SMD file.</p> <p>(b) Problem with SMD files does not seem prevalent based on the previously collected data.</p> |                           |
| <p><b>QUESTION 8</b><br/>           On LRP, ALP, QLP – Limited Registration Periods, Approved Launch Programs and Qualified Launch Programs:<br/>           (a) Are Limited Registration Periods in need of review vis a vis the Sunrise Period? Approved Launch Programs? Qualified Launch programs?<br/>           (b) Are the ALP and QLP periods in need of review?</p> |  |                           |

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|--|--|--|
| (c) What aspects of the LRP are in need of review?   |  |  |
| ANALYSIS GROUP SURVEY RESULTS  | DATA PREVIOUSLY COLLECTED  | ADDITIONAL DATA SUBMITTED  |
| <p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b><br/>                     Registries &amp; Registrars tab: cells D51-52, F52-54<br/>                     Registry - Q29a tab: cells A5, A7</p>   | <p><b>Data (See: <a href="#">Source Tab</a>)</b><br/>                     Deloitte TMCH Report: p.5<br/>                     Analysis Group Report: pp.7, 66<br/>                     TLD Startup Tool</p>   | <p><b>Data</b></p> <ul style="list-style-type: none"> <li>● <a href="#">WIPO FAQ on Geographical Indications</a></li> <li>● Transcript of F2F RPM WG Meeting June 2017 Johannesburg: <a href="#">Transcript 1</a> (pp.33-34, 37), <a href="#">Transcript 2</a> (pp.27-31)</li> <li>● <a href="#">Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET</a></li> </ul> |
| <p><b>Details</b><br/> <a href="https://docs.google.com/document/d/1mKDObpwPUDjn2-uhKENIEL6mZlwVC_wZX2VxVuvQqag/edit?usp=sharing">https://docs.google.com/document/d/1mKDObpwPUDjn2-uhKENIEL6mZlwVC_wZX2VxVuvQqag/edit?usp=sharing</a></p>   | <p><b>Details</b><br/> <a href="https://drive.google.com/open?id=1aovilYvgbzf0GXyVN1sBUC2BZCsabnkEvKoQ9SJ4jpM">https://drive.google.com/open?id=1aovilYvgbzf0GXyVN1sBUC2BZCsabnkEvKoQ9SJ4jpM</a></p>   | <p><b>Details</b><br/> <a href="https://docs.google.com/document/d/1PSjuohvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83tuc/edit?usp=sharing">https://docs.google.com/document/d/1PSjuohvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83tuc/edit?usp=sharing</a> (pp.19-20)</p>  |
| <p><b>Sub Team Discussion:</b> <a href="#">23 January 2018</a></p>   | <p><b>Sub Team Discussion:</b> <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>   | <p><b>Sub Team Discussion:</b> <a href="#">27 February 2019</a></p>  |
| <p><b>Summary of Discussions/Individual Comments</b><br/>                     The AG survey results assist in answering this question, including all of its sub questions (a), (b), and (c). Responses from Registry Operators and Registrars indicate that:</p> <p>(a) Due to various unanticipated issues, the</p> | <p><b>Summary of Discussions/Individual Comments</b><br/>                     The previously collected data assist in answering this question, including all of its sub questions (a), (b), and (c).</p> <p>(a) Limited Registration Periods are in need of review. One registry respondent to the</p> | <p><b>Summary of Discussions/Individual Comments</b><br/>                     Information shared by Amadeu Abril i Abril during the June 2017 Johannesburg meeting, WIPO FAQ on Geographical Indications, as well as the Working Group’s discussions about GI entries in the TMCH and marks protected by statute or treaties may be a</p>  |

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|--|---|---|
| <p>Limited Registration Periods are in need of review, particularly the Approved Launch Programs.</p> <p>(b) It is implied that ALP and QLP periods are in need of review.</p> <p>(c) The aspects of the LRP that are in need of review include: lack of clarity/understanding, conflict between locally protected terms and TMCH, eligibility issues, registration of locally-targeted TLD, Internationalized Domain Name (IDN) issues, ICANN Org process, issues with GEO TLDs, overly generic strings, etc.</p> | <p>Analysis Group questionnaire noted that the slow approval for special launch programs sometimes caused TLDs to give priority to trademark owners instead of geoTLDs and ccTLD community members. As the great majority of marks in the TMCH are Latin script with recordals dominated by US customers (e.g., only 127 verified trademark in Russia in the Deloitte TMCH Report), it seems to suggest the potential need for change of Limited Registration Periods to account for the lack of TMCH usage in certain countries/geographical regions.</p> <p>(b) ALP and QLP periods seem to be in need of review. Information on ALP and QLP policies and periods of various Registry Operators can be accessed from the TLD Startup Tool on ICANN.org.</p> <p>(c) One aspect of the LRP in need of review seems to be the “slow approval” process.</p> | <p>factor to consider in the Working Group’s discussion of whether Limited Registration Periods/ALP/QLP are in need of review.</p> <p>According to Amadeu, QLP has worked well, but ALP “has been a complete failure and complete fraud because ICANN staff has not been willing to approve anything else than the one as a test. And that one has not been yet -- been carried out”.</p> |
| <p><b>QUESTION 9</b><br/>                     In light of the evidence gathered above, should the scope of Sunrise Registrations be limited to the categories of goods and services for which the trademark is actually registered and put in the Clearinghouse?</p>   |   |   |

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|--|---|--|
| <b>ANALYSIS GROUP SURVEY RESULTS</b>   | <b>DATA PREVIOUSLY COLLECTED</b>  | <b>ADDITIONAL DATA SUBMITTED</b>   |
| <p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b><br/>                     Registries &amp; Registrars tab: cells F52-53, G74<br/>                     TM &amp; Brand Owners tab: cell F14, F17, F25<br/>                     TM Owner - Q10 tab: cell F6<br/>                     Actual &amp; Potential Registrants tab: cell E14</p> | <p><b>Data (See: <a href="#">Source Tab</a>)</b><br/>                     Registry Operator Responses: p.2<br/>                     Deloitte Responses: Question 17<br/>                     Deloitte Follow Up: Questions 6, 7<br/>                     Analysis Group Report: p.26<br/>                     INTA Survey: p.30</p> | <p><b>Data</b></p> <ul style="list-style-type: none"> <li>● <a href="#">How one guy games new gTLD sunrise periods</a></li> <li>● <a href="#">Fake Trademarks Stealing Generic Domains In New gTLD Sunrises</a></li> <li>● <a href="#">The Trademark ClearingHouse Worked So Well One Company Got 24 new gTLD using The Famous Trademark "The"</a></li> <li>● <a href="#">Is The Trademark Clearinghouse Causing New gTLD's To Lose 6X The Number Of Registrations?</a></li> <li>● <a href="#">How common words like Pizza, Money, and Shopping ended up in the Trademark Clearinghouse for new TLDs</a></li> <li>● <a href="#">The numbers are in! Donuts sunrises typically get 100+ domains, but they also got gamed</a></li> <li>● <a href="#">Digging in on Donuts' Sunrise: Amazon tops the list, gaming, and top registrars</a></li> <li>● <a href="#">.Build Registry Using Questionable Swiss Trademark Registration To Grab "Build" Domains In Sunrise</a></li> <li>● <a href="#">How Did RetailMeNot Get 849 .Codes Domains In Sunrise Without Any</a></li> </ul> |

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|---|--|--|
|   |  | <ul style="list-style-type: none"> <li><a href="#">Trademarks?</a></li> <li>• <a href="#">Are We Running Out of Trademarks?</a></li> <li>• <a href="#">WIPO FAQ on Geographical Indications</a></li> <li>• Transcript of F2F RPM WG Meeting June 2017 Johannesburg: <a href="#">Transcript 1</a> (p.12), <a href="#">Transcript 2</a></li> <li>• <a href="#">Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET</a></li> </ul> |
| <b>Details</b><br><a href="https://docs.google.com/document/d/1SuRmmORn9CKT6946wYpjpjGjJ_3F8UCIfNzU1dWh8E/edit?usp=sharing">https://docs.google.com/document/d/1SuRmmORn9CKT6946wYpjpjGjJ_3F8UCIfNzU1dWh8E/edit?usp=sharing</a>   | <b>Details</b><br><a href="https://drive.google.com/open?id=1lvPOFuKMmNdJNyaUmzcnnLsb_-Qmkejn-rvGp3fhsZg">https://drive.google.com/open?id=1lvPOFuKMmNdJNyaUmzcnnLsb_-Qmkejn-rvGp3fhsZg</a>  | <b>Details</b><br><a href="https://docs.google.com/document/d/1PSjuohvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83tuc/edit?usp=sharing">https://docs.google.com/document/d/1PSjuohvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83tuc/edit?usp=sharing</a> (pp.1-20)  |
| <b>Sub Team Discussion:</b> <a href="#">23 January 2018</a>   | <b>Sub Team Discussion:</b> <a href="#">6 February 2019</a> , <a href="#">13 February 2019</a> , <a href="#">20 February 2019</a> , <a href="#">27 February 2019</a>   | <b>Sub Team Discussion:</b> <a href="#">27 February 2019</a>   |
| <b>Summary of Discussions/Individual Comments</b><br>Some members believe the survey data assists in answering this question, indicating that the Sunrise Registration should be limited to the categories of goods and services for which the trademark is actually registered and put in the TMCH due to issues such as overly generic strings and gaming | <b>Summary of Discussions/Individual Comments</b><br>The previously collected data assist in answering this question. Sub Team members have mixed opinions on whether the scope of Sunrise Registrations should be limited to the categories of goods and services for which | <b>Summary of Discussions/Individual Comments</b><br>As Sunrise service “operates off the data in the TMCH”, the extent to which common words are already subject to registration in the US, the broad scope of registration within the TMCH (including Geographical Indicator and other marks protected by statute or   |

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*Draft as of 16 April 2019 - Prepared by ICANN staff for use by the Sunrise Sub Team*

| ANALYSIS GROUP SURVEY RESULTS | DATA PREVIOUSLY COLLECTED  | ADDITIONAL DATA SUBMITTED   |
|-------------------------------|--|---|
| <p>concerns.</p>              | <p>the trademark is actually registered and put in the Clearinghouse.</p> <p>As Sunrise service “operators off the data in the TMCH”, Some Sub Team members believe it is necessary due to Deloitte’s acceptance of “non-trademarks” (e.g., geographical indications, protected designation of origin, protected appellations of origin) as well as design marks into the TMCH. Hence limiting the Sunrise Registration would be helpful in dealing with the “overbreadth” issue.</p> <p>Some Sub Team members believe that it is not necessary, as Registry Operators already have the capability to limit registration by goods and services based on information provided in the SMD-files; none of the Registry Operators that responded to the survey has done so. In addition, Analysis Group was unable to include the variation of goods or services in their study of the TMCH, suggesting it would be difficult to implement the limitation. Their difficulty stemmed from the complexity associated with the Nice classification codes, as well as the mismatch</p> | <p>treaties), as well as anecdotes about actual/potential abuses of Sunrise by registrants/trademark owners/registries taking advantage of the TMCH may be a factor to consider in the Working Group’s discussion of whether the scope of Sunrise Registrations should be limited to the categories of goods and services for which the trademark is actually registered and put in the Clearinghouse. Issues raised by Rubens Kuhl during the June 2017 Johannesburg meeting may also be relevant.</p> <p>Some Sub Team members support stronger scrutiny over how marks are included and their protections applied, particularly with regard to limiting their application to categories of demonstrated use.</p> |

## Summary Table of Final Agreed Sunrise Questions, Data & Discussions

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| ANALYSIS GROUP SURVEY RESULTS  | DATA PREVIOUSLY COLLECTED   | ADDITIONAL DATA SUBMITTED  |
|--|---|--|
|  | <p>between keywords associated with the trademark and the definition of the broad industry that applies to the trademark. Based on results from the INTA Survey, the costs for proof of use filing are relatively low as well, suggesting the imposition of additional requirements may not add to a system that is already too burdensome.</p> |  |
| <p><b>QUESTION 10</b><br/>Explore use and the types of proof required by the TMCH when purchasing domains in the sunrise period.</p> |   |  |
| ANALYSIS GROUP SURVEY RESULTS  | DATA PREVIOUSLY COLLECTED   | ADDITIONAL DATA SUBMITTED  |
| <p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b><br/>Not Applicable</p>  | <p><b>Data (See: <a href="#">Source Tab</a>)</b><br/>Deloitte Responses: Question 15<br/>Deloitte Follow Up: Question 1<br/>INTA Survey: pp.30-31</p>   | <p><b>Data</b></p> <ul style="list-style-type: none"> <li>● <a href="#">How one guy games new gTLD sunrise periods</a></li> <li>● <a href="#">Fake Trademarks Stealing Generic Domains In New gTLD Sunrises</a></li> <li>● <a href="#">The Trademark ClearingHouse Worked So Well One Company Got 24 new gTLD using The Famous Trademark "The"</a></li> <li>● <a href="#">Is The Trademark Clearinghouse Causing New gTLD's To Lose 6X The Number Of Registrations?</a></li> <li>● <a href="#">How common words like Pizza, Money, and Shopping ended up in the Trademark Clearinghouse for new TLDs</a></li> <li>● <a href="#">The numbers are in! Donuts sunrises</a></li> </ul> |



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| ANALYSIS GROUP SURVEY RESULTS   | DATA PREVIOUSLY COLLECTED  | ADDITIONAL DATA SUBMITTED   |
|---|--|---|
|   |  | <p><a href="#">typically get 100+ domains, but they also got gamed</a></p> <ul style="list-style-type: none"> <li>• <a href="#">Digging in on Donuts' Sunrise: Amazon tops the list, gaming, and top registrars</a></li> <li>• <a href="#">.Build Registry Using Questionable Swiss Trademark Registration To Grab "Build" Domains In Sunrise</a></li> <li>• <a href="#">How Did RetailMeNot Get 849 .Codes Domains In Sunrise Without Any Trademarks?</a></li> </ul> |
| <p><b>Details</b><br/> <a href="https://docs.google.com/document/d/15CeX6Ky2Y070drQ6NeHX8H-kTPopsnkH43v_OIRWVi0/edit?usp=sharing">https://docs.google.com/document/d/15CeX6Ky2Y070drQ6NeHX8H-kTPopsnkH43v_OIRWVi0/edit?usp=sharing</a></p>  | <p><b>Details</b><br/> <a href="https://drive.google.com/open?id=19aBDQ-QFPYcxwKiR7v5ruojFEYgtggET59N8bHpAXU">https://drive.google.com/open?id=19aBDQ-QFPYcxwKiR7v5ruojFEYgtggET59N8bHpAXU</a></p>   | <p><b>Details</b><br/> <a href="https://docs.google.com/document/d/1PSjuohvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83tuc/edit?usp=sharing">https://docs.google.com/document/d/1PSjuohvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83tuc/edit?usp=sharing</a> (1-19)</p>   |
| <p><b>Sub Team Discussion:</b> <a href="#">23 January 2018</a></p>  | <p><b>Sub Team Discussion:</b> <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>   | <p><b>Sub Team Discussion:</b> <a href="#">27 February 2019</a></p>   |
| <p><b>Summary of Discussions/Individual Comments</b><br/>                     The AG survey results do not assist in answering this question. However, trademark and brand owner respondents provided information on how many TMCH records had proof of use submitted, as well as the reasons why proof of use was not submitted. In addition, the Staff Report on RPMs include</p> | <p><b>Summary of Discussions/Individual Comments</b><br/>                     The previously collected data assist in answering this question, providing information on the use and the types of proof required by the TMCH. 96% of the active TMCH records are Sunrise eligible, implying Deloitte is accepting the proof of use 96% of</p> | <p><b>Summary of Discussions/Individual Comments</b><br/>                     As Sunrise service “operates off the data in the TMCH”, anecdotes about actual/potential abuses of Sunrise by registrants/trademark owners/registries taking advantage of the TMCH may be a factor to consider in the Working Group’s</p>   |

## Summary Table of Final Agreed **Sunrise** Questions, Data & Discussions

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| ANALYSIS GROUP SURVEY RESULTS  | DATA PREVIOUSLY COLLECTED  | ADDITIONAL DATA SUBMITTED   |
|--|--|---|
| examples of the use and types of proof, which may assist in answering this question.   | the time. Deloitte has a clearly defined proof of use verification process and submitted a " <a href="#">how to submit a proof of use manual</a> " on its website that includes examples of (im)permissible samples. The range of samples accepted by the TMCH is intended to be flexible to accommodate practices from multiple jurisdictions. The INTA Survey also provided information on the number of proof of use filed and cost of proof of use filings by trademark owner respondents. | discussion of the use and types of proof required by the TMCH when purchasing domains in the Sunrise Period (e.g., "token use" in the TMCH validation system).  |
| <b>QUESTION 11</b><br>(a) How effectively can trademark holders who use non-English scripts/languages able to participate in Sunrise (including IDN Sunrises)?<br>(b) Should any of them be further "internationalized" (such as in terms of service providers, languages served)? |  |   |
| ANALYSIS GROUP SURVEY RESULTS  | DATA PREVIOUSLY COLLECTED  | ADDITIONAL DATA SUBMITTED   |
| <b>Data (See: <a href="#">Survey Analysis Tool</a>)</b><br>Registries & Registrars tab: cells F56-57<br>Registry - Q29a tab: cell A7   | <b>Data (See: <a href="#">Source Tab</a>)</b><br>Deloitte TMCH Report: Sections 2.1.1, 2.1.2<br>Analysis Group Report: pp.7, 67<br>TLD Startup Tool  | <b>Data</b><br>Transcript of F2F RPM WG Meeting June 2017 Johannesburg: <a href="#">Transcript 1</a> (pp.9-10, 33-34, 37), <a href="#">Transcript 2</a> (pp.27-31)  |
| <b>Detail</b><br><a href="https://docs.google.com/document/d/1NwYDeR1iCnwTQbGtW0iN9DW658DrdA6TvPLtJJOlTo8/edit?usp=sharing">https://docs.google.com/document/d/1NwYDeR1iCnwTQbGtW0iN9DW658DrdA6TvPLtJJOlTo8/edit?usp=sharing</a>   | <b>Details</b><br><a href="https://drive.google.com/open?id=1sKYwbyUrWYog2FKzSuZLobdwzi10CZnRgT6SsZrst0k">https://drive.google.com/open?id=1sKYwbyUrWYog2FKzSuZLobdwzi10CZnRgT6SsZrst0k</a>  | <b>Details</b><br><a href="https://docs.google.com/document/d/1PSjuohvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83tuc/edit?usp=sharing">https://docs.google.com/document/d/1PSjuohvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83tuc/edit?usp=sharing</a> (17-19) |

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|---|--|---|
| <p><b>Sub Team Discussion:</b> <a href="#">23 January 2018</a></p>  | <p><b>Sub Team Discussion:</b> <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>   | <p><b>Sub Team Discussion:</b> <a href="#">27 February 2019</a></p>   |
| <p><b>Summary of Discussions/Individual Comments</b></p> <p>The AG survey results assist in answering this question, including both of its sub questions (a) and (b). Responses from Registry Operators indicate that:</p> <p>(a) Some trademark and brand owners cannot effectively use non-English scripts/languages to be able to participate in Sunrise (including IDN Sunrises) due to factors such as the lack of support by TMCH for transliteration of the trademark.</p> <p>(b) Aspects such as service providers and languages served may be further “internationalized” as there is interest/desire for IDN Sunrise registration. However, some TLDs have an IDN-only policy, hence no need to establish a separate IDN Sunrise.</p> | <p><b>Summary of Discussions/Individual Comments</b></p> <p>The previously collected data assist in answering the sub question (a).</p> <p>As the great majority of marks in the TMCH are Latin script with records dominated by US customers, it suggests that trademark holders who use non-English scripts/languages may not be able to effectively participate in Sunrise. Deloitte TMCH Report indicates the breakdown of TMCH entries by country, but there is no data related to IDN issues. The TLD Startup Tool on ICANN.org has information on IDN TLDs and links to their policies in English by design (non-English policies may exist elsewhere), but it only allows search by A-label.</p> <p>The previously collected data do not assist in answering the sub question (b) about what aspect of Sunrise should be further “internationalized”. However, one</p> | <p><b>Summary of Discussions/Individual Comments</b></p> <p>Information shared by Amadeu Abril i Abril during the June 2017 Johannesburg meeting may help inform the Working Group’s discussions of the effectiveness of trademark holders who use non-English scripts/languages to participate in Sunrise (including IDN Sunrise), and whether further “internationalization” is needed.</p> |

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|--|---|--|
|  | respondent to the Analysis Group questionnaire suggested the expansion of IDN-related matching criteria (e.g., IDN matches for ä, ö, ü).  |  |
| <p><b>QUESTION 12</b></p> <p>(a) Should Sunrise Registrations have priority over other registrations under specialized gTLDs?</p> <p>(b) Should there be a different rule for some registries, such as certain types of specialized gTLDs (e.g. community or geo TLDs), based on their published registration/eligibility policies? Examples include POLICE.PARIS and POLICE.NYC for geo-TLDs, and WINDOWS.CONSTRUCTION for specialized gTLDs.</p> |   |  |
| ANALYSIS GROUP SURVEY RESULTS  | DATA PREVIOUSLY COLLECTED   | ADDITIONAL DATA SUBMITTED  |
| <p><b>Data (See: <a href="#">Survey Analysis Tool</a>)</b></p> <p>Registries &amp; Registrars tab: cells D-F27-29, D-F30-31, D-F51-54</p> <p>Registry - Q29a tab: cell A5, A7</p>  | <p><b>Data (See: <a href="#">Source Tab</a>)</b></p> <p>Registry Operator Responses: p.2</p> <p>Deloitte Responses: Question 17</p> <p>Deloitte Follow Up: Questions 6, 7</p> <p>Deloitte TMCH Report: p.5</p> <p>Analysis Group Report: pp.7, 66</p> | <p><b>Data</b></p> <ul style="list-style-type: none"> <li>● Transcript of F2F RPM WG Meeting 6 June 2017 Johannesburg: <a href="#">Transcript 1</a> (pp.28-30, 33-34, 37-38), <a href="#">Transcript 2</a> (pp.27-31)</li> <li>● <a href="#">WIPO FAQ on Geographical Indications</a></li> <li>● <a href="#">Transcription ICANN Copenhagen RPM WG Mtg 11 March 2017 @10:15 CET</a></li> </ul> |
| <p><b>Detail</b></p> <p><a href="https://docs.google.com/document/d/1Kwy-c7xAxVlrknsIOzGYmB7PIK9u0PJIFdjYu5dV7lw/edit?usp=sharing">https://docs.google.com/document/d/1Kwy-c7xAxVlrknsIOzGYmB7PIK9u0PJIFdjYu5dV7lw/edit?usp=sharing</a></p>  | <p><b>Details</b></p> <p><a href="https://drive.google.com/open?id=1Jz_VC-96ki-yvLKxIB7ld8IB6wtwSnFnHU1JIS5aO0">https://drive.google.com/open?id=1Jz_VC-96ki-yvLKxIB7ld8IB6wtwSnFnHU1JIS5aO0</a></p>  | <p><b>Details</b></p> <p><a href="https://docs.google.com/document/d/1PSjuohvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83tuc/edit?usp=sharing">https://docs.google.com/document/d/1PSjuohvTGkXbmK5eNGSEi_R0qw6GvI3Hv3MtpK83tuc/edit?usp=sharing</a> (17-20)</p>   |

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|--|---|--|
| <p><b>Sub Team Discussion:</b> <a href="#">23 January 2018</a></p>   | <p><b>Sub Team Discussion:</b> <a href="#">6 February 2019</a>, <a href="#">13 February 2019</a>, <a href="#">20 February 2019</a>, <a href="#">27 February 2019</a></p>  | <p><b>Sub Team Discussion:</b> <a href="#">27 February 2019</a></p>  |
| <p><b>Summary of Discussions/Individual Comments</b></p> <p>The AG survey results assist in answering this question, including both of its sub questions (a) and (b). Responses from Registry Operators indicate that:</p> <p>(a) Sunrise Registration should not have priority over other registrations under specialized gTLDs due to factors such as conflicts between locally protected terms and TMCH, eligibility issues, issues with GEO TLDs, registration of locally-targeted TLD, IDN issues, high cost of Sunrise for small local businesses, etc. It is also a priority to accommodate community and GEO TLDs, including those related to family names in some jurisdictions, locally or niche meaningful names, local specifications, history, culture, public services, signature locations, names important for the Capital, local administrations, etc. Registrations under some specialized gTLDs would also prevent propagation of profane language.</p> | <p><b>Summary of Discussions/Individual Comments</b></p> <p>The previously collected data assist in answering this question, including both of its sub questions (a) and (b).</p> <p>(a) Sunrise Registrations should not have priority over other registrations under specialized gTLDs. As the great majority of marks in the TMCH are Latin script with records dominated by US customers (e.g., only 127 verified trademark in Russia in the Deloitte TMCH Report), it suggests the lack of TMCH usage in certain countries/geographical regions. Due to Deloitte’s acceptance of “non-trademarks” (e.g., geographical indications, protected designation of origin, protected appellations of origin) as well as design marks into the TMCH, giving specialized gTLDs the option to have either Sunrise or other appropriate Limited Registration Period may be helpful in dealing with the “overbreadth” issue.</p> | <p><b>Summary of Discussions/Individual Comments</b></p> <p>Information provided by Amadeu Abril i Abril and issues raised by Maxim Alzoba during the June 2017 Johannesburg meeting, WIPO FAQ on Geographical Indications, as well as Working Group’s discussions about GI entries into the TMCH and marks protected by statute or treaties may be a factor to consider in the Working Group’s discussion of whether Sunrise Registrations should have priority over other registrations under specialized gTLDs, and whether there should be a different rule for some registries.</p> |

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|--|---|---------------------------|
| <p>(b) There are mixed views in terms of altering rules for some Registry Operators, such as certain types of specialized TLDs (e.g., community or GEO TLDs), based on their published registration/eligibility policies. It seems that the majority of Registry Operator respondents were able to work within the existing rules despite the hurdles.</p> | <p>(b) Implied by the answer to sub question (a), rules for some registries, such as certain types of specialized gTLDs, may be altered based on their published registration/eligibility policies. One registry respondent to the Analysis Group questionnaire noted that the slow approval for special launch programs sometimes caused TLDs to give priority to trademark owners instead of geoTLDs and ccTLD community members -- the rules causing the "slow approval" may need to be altered. In addition, Registry Operators already have the capability to limit registration by goods and services based on information provided in the SMD-files; but none of the Registry Operator that responded to the survey has done so.</p> |                           |

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|-------------------------------|---------------------------|---------------------------|
|-------------------------------|---------------------------|---------------------------|

## APPENDIX: Data Reviewed by the Sunrise Sub Team

- Analysis Group Revised Report on the TMCH (February 2017):  
<https://community.icann.org/download/attachments/64066042/Analysis%20Group%20Revised%20TMCH%20Report%20-%20March%202017.pdf?version=1&modificationDate=1490349029000&api=v2>
  - Analysis Group responses to questions from the Working Group:
    - June 2017: <https://mm.icann.org/pipermail/gnso-rpm-wg/2017-June/002043.html>
    - July 2017: <https://mm.icann.org/pipermail/gnso-rpm-wg/2017-July/002257.html>
- Registry Operator responses to initial survey from TMCH Data Gathering Sub Team (December 2016):  
<https://community.icann.org/download/attachments/64066042/Registry%20Responses%20to%20TMCH%20Data%20Sub%20Team%20-%202013%20Dec.pdf?version=1&modificationDate=1485897782000&api=v2>
  - RPM Data Sub Team meeting with Jon Nevelt, Donuts (March 2018):  
<https://community.icann.org/download/attachments/79438928/Transcription%20ICANN61%20GNSO%20RPM%20Data%20Sub%20Team%20Meeting%2010%20March%202018.pdf?version=1&modificationDate=1521579214000&api=v2>
- Deloitte responses to initial questions from TMCH Data Gathering Sub Team (January 2017):  
<https://community.icann.org/download/attachments/64066042/Deloitte%20responses%20to%20TMCH%20Data%20Gathering%20Sub%20Team%20questions%20-%20Jan%202017.docx?version=1&modificationDate=1485897782000&api=v2>
  - Follow up questions from Working Group (March 2017):  
<https://community.icann.org/download/attachments/64066042/Follow%20Up%20Questions%20for%20Deloitte%20-%20updated%205%20March%202017.docx?version=1&modificationDate=1488753827000&api=v2> and  
<https://community.icann.org/download/attachments/64066042/Deloitte%20Follow%20Up%20Questions%20Annex%20-%2004%20March%202017.docx?version=1&modificationDate=1488752114000&api=v2>
  - Deloitte response to follow up questions (April 2017):  
<https://community.icann.org/download/attachments/64066042/Deloitte%20Follow%20Up%20Questions%20Annex%20-%2004%20March%202017.docx?version=1&modificationDate=1488752114000&api=v2>
  - Deloitte numbers report as discussed with the Working Group at ICANN58 (March 2017):  
<https://community.icann.org/download/attachments/64066042/Deloitte%20Follow%20Up%20Questions%20Annex%20-%2004%20March%202017.docx?version=1&modificationDate=1488752114000&api=v2>

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|-------------------------------|---------------------------|---------------------------|
|-------------------------------|---------------------------|---------------------------|

- ICANN staff-compiled summary data on Sunrise registrations:  
<http://mm.icann.org/pipermail/gnso-rpm-wg/attachments/20171010/fc173bd9/Staffcompilationreport-Sunrisedata-3Oct2017-0001.pdf>
- INTA cost impact survey:  
<https://community.icann.org/download/attachments/69277722/INTA%20New%20gTLD%20Cost%20Impact%20Study%20Presentation%20-%2030%20Aug.pdf?version=1&modificationDate=1504147055000&api=v2> and  
[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_community.icann.org\\_download\\_attachments\\_61606864\\_INTA-2520Cost-2520Impact-2520Report-2520revised-25204-2D13-2D17-2520v2.1.pdf-3Fversion-3D1-26modificationDate-3D1500376749000-26api-3Dv2&d=DwMGaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=ML0yWdAdSdj4cRa39aHRCVysVa9ub30XpFPLr1fc51I&s=KXW3vtHBAKxxiT4X6sLxZQO2dIKSW8Zc-BhfZ1t7IAA&e](https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_download_attachments_61606864_INTA-2520Cost-2520Impact-2520Report-2520revised-25204-2D13-2D17-2520v2.1.pdf-3Fversion-3D1-26modificationDate-3D1500376749000-26api-3Dv2&d=DwMGaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0AIgn-H4xR2EBk&m=ML0yWdAdSdj4cRa39aHRCVysVa9ub30XpFPLr1fc51I&s=KXW3vtHBAKxxiT4X6sLxZQO2dIKSW8Zc-BhfZ1t7IAA&e)
- ICANN Org-maintained list of Registry Operators and relevant dates for Sunrise, Trademark Claims and other specific approved program periods (e.g. Limited Registration Periods, Qualified Launch Programs):  
<https://newgtlds.icann.org/en/program-status/sunrise-claims-periods>
- Analysis Group Sunrise & Trademark Claims survey results:
  - Inception Report (September 2018):  
<https://community.icann.org/download/attachments/90771305/9.6.2018%20Inception%20Report.pdf?version=1&modificationDate=1536257221000&api=v2>
  - Final Report (October 2018):  
<https://community.icann.org/download/attachments/90773066/Final%20ICANN%20RPM%20Survey%20Report%202018.10.18.pdf?version=1&modificationDate=1540302625000&api=v2>
  - All data files reported: <https://community.icann.org/pages/viewpage.action?pageId=90771305>
  - Analysis Group response to follow up questions (November 2018):  
<https://community.icann.org/download/attachments/99483940/Questions%20%26%20Comments%20-%20Final%20Report%20RPM%20Survey%20-%20AG%20comments.pdf?version=1&modificationDate=1543271647000&api=v2>
- Additional data related to Sunrise and Trademark Claims submitted by Working Groups members in February 2019:  
<https://community.icann.org/x/Gp8WBg>