

Sunrise Sub Team Recommendations Endorsed by RPM PDP Working Group

[Draft as of 24 July 2019]

Table 1 is a snapshot of the overall status of the Sunrise Sub Team's deliberation on each agreed charter question and development of proposed answers, preliminary recommendations (if any), and proposed questions for community input (if any).

Table 2 consolidates, in a clear and concise manner, the Sub Team's proposed answers, preliminary recommendations, and proposed questions for community input in relation to each agreed Sunrise charter question. The Sub Team has finalized the text during its meetings on 25 June and 27 June 2019 at ICANN65. During its meetings on 17 July and 24 July, the RPM WG reviewed and endorsed the Sub Team recommendations, which have incorporated input from WG members.

Table 3 is a snapshot, based on Sub Team Co-Chairs' preliminary assessment, of the results of the review of all individual proposals received from Working Group members. Details and additional context are contained in the Sub Team's Summary Table and the Sub Team's weekly progress reports.

Table 1: Status of Sub Team Deliberation

Question	Overall Status	Open Item
Preamble Q	Sub Team reviewed draft text on 25 June, staff revised proposed answers and preliminary recommendations incorporating input from the Sub Team	None
Q1	Sub Team reviewed draft text on 29 May, ST Co-Chairs and staff revised proposed answers and preliminary recommendations incorporating input from the Sub Team, Sub Team reviewed the revised draft text on 25 June	None
Q2	Sub Team reviewed draft text on 29 May, ST Co-Chairs and staff revised proposed answers and preliminary recommendations incorporating input from the Sub Team, Sub Team reviewed the revised draft text on 27 June	None

Draft as of 24 July 2019

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
Q3	Sub Team reviewed draft text on 5 June, ST Co-Chairs and staff revised proposed answers incorporating input from the Sub Team, Sub Team reviewed the revised draft text on 27 June	None
Q4	Sub Team reviewed draft text on 5 June, ST Co-Chairs and staff revised proposed answers incorporating input from the Sub Team, Sub Team reviewed the revised draft text on 27 June	None
Q5(a)	Sub Team reviewed draft text 5 June, Sub Team had no comment, ST Co-Chairs and staff revised proposed answers and preliminary recommendations, Sub Team reviewed the revised draft text on 27 June	None
Q5(b)	Sub Team reviewed draft text on 27 June, staff revised proposed answers and preliminary recommendations incorporating input from the Sub Team	None
Q6	Sub Team reviewed draft text on 5 June and 12 June, ST Co-Chairs and staff revised proposed answers incorporating input from the Sub Team, Sub Team reviewed the revised draft text on 27 June	None
Q7	Sub Team reviewed draft text on 27 June, no revision was suggested	None
Q8	Sub Team reviewed draft text on 25 June, staff revised proposed answers and proposed questions incorporating input from the Sub Team	None
Q9	Sub Team reviewed draft text on 27 June, staff revised proposed answers and preliminary recommendations incorporating input from the Sub Team	None
Q10	Sub Team reviewed draft text on 27 June, staff revised proposed answers and preliminary recommendations incorporating input from the Sub Team	None
Q11	Sub Team reviewed draft text on 27 June, staff revised proposed answers and preliminary recommendations incorporating input from the Sub Team	None
Q12	Sub Team reviewed draft text on 25 June, staff revised proposed answers and	None

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
	proposed questions incorporating input from the Sub Team	

Table 2: Proposed Answers, Preliminary Recommendations & Proposed Questions for Community Input

PREAMBLE QUESTION		
Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input ¹
<p>Preamble Q(a): <i>Is the Sunrise Period serving its intended purpose?</i></p> <p>Proposed Answer: The Sub Team noted that the intended purpose for Sunrise service is as follows: Sunrise services allow trademark holders an advance opportunity to register domain names corresponding to their marks before names are generally available to the public.² The Sub Team generally agreed that the Sunrise Period is serving its intended purpose as stated previously.</p>		
<p>Preamble Q(b): <i>Is it having unintended effects?</i></p> <p>Proposed Answer: The Sub Team generally agreed that the Sunrise Period is having</p>		<p>The Sunrise Sub Team recommends that public comment be sought on the following question:</p> <ul style="list-style-type: none"> • What remedy(ies) would you propose for any unintended effects of the Sunrise

¹ In the initial report, it should be noted that public commenters should respond with rationale and evidence wherever possible to all proposed questions for community input.

² See <https://newgtlds.icann.org/en/about/trademark-clearinghouse/faqs>

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>unintended effects. However, the Sub Team was uncertain about the scope and extent of the unintended effects.</p>		<p>Period that you have identified in your public comment?</p>
<p>Preamble Q(d): Have abuses of the Sunrise Period been documented by trademark owners?</p> <p>Preamble Q(e): Have abuses of the Sunrise Period been documented by Registrants?</p> <p>Preamble Q(f): Have abuses of the Sunrise Period been documented by Registries and Registrars?</p> <p>Proposed Answer: The Sub Team interpreted these questions as follows: "Have abuses of the Sunrise Period been documented?"</p> <p>The Sub Team generally agreed that the Sunrise Period is having unintended effects, but was uncertain about the extent and scope of abuses of the Sunrise Period.</p>		<p>The Sunrise Sub Team recommends that public comment be sought on the following questions:</p> <ul style="list-style-type: none"> • Have you identified abuses of the Sunrise Period? • To the extent that you have identified abuses of the Sunrise Period, if any, please describe them and specify any documentation to substantiate the identified abuses.
<p>Preamble Q(c): Is the TMCH Provider requiring appropriate forms of "use" (if not, how can this corrected)?</p> <p>Proposed Answer: The Sub Team generally agreed that the TMCH Provider is requiring appropriate forms of proof of use, according to the enumerated rules (i.e., Section 2.2.3 of</p>		

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
the TMCH guidelines). ³		
QUESTION 1		
Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Q1(a): <i>Should the availability of Sunrise registrations only for identical matches be reviewed?</i></p> <p>Proposed Answer: The Sub Team ultimately concluded that the availability of Sunrise registrations only for identical matches should be maintained, noting that members of the Sub Team had diverging opinions on this matter.</p>	<p>In the absence of wide support for a change to the status quo, the Sunrise Sub Team recommends that the current availability of Sunrise registrations only for identical matches should be maintained, and the matching process should not be expanded.</p>	
<p>Q1(b): <i>If the matching process is expanded, how can Registrant free expression and fair use rights be protected and balanced against trademark rights?</i></p> <p>Proposed Answer: Since the Sub Team ultimately concluded that the availability of Sunrise registrations only for identical matches should be maintained, the Sub Team did not consider this question in detail.</p>		

³ See Section 2.2.3 of the TMCH guidelines on pages 8-10 here: https://www.trademark-clearinghouse.com/sites/default/files/files/downloads/TMCH%20guidelines%20v1.0%20_1.pdf

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
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QUESTION 2		
Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Q2 Threshold: <i>Is Registry pricing within the scope of the RPM WG or ICANN's review?</i></p> <p>Proposed Answer: The Sub Team had diverging opinions on whether registry pricing is within the scope of the RPM PDP WG. Some Sub Team members pointed to the Registry Agreements that state that registry pricing is not within the scope of the RPM WG due to the picket fence.⁴ Specifically, Section 1.4.1 of Specification 1 of the Registry Agreement and Section 1.4.1 of the Consensus Policies and Temporary Policies Specification of the Registrar Accreditation Agreement respectively specify that Consensus Policies shall not prescribe or limit the price of Registry Services and Registrar Services.⁵ However, some Sub Team</p>		

⁴ **Picket Fence:** In its original agreements with ICANN, registries and registrars agreed to comply with "consensus" policies adopted by ICANN provided (i) that such policies did not unreasonably restrain competition and (ii) that the policies related to: 1) issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, technical reliability and/or stable operation of the Internet or domain-name system; 2) registry policies reasonably necessary to implement Consensus Policies relating to registrars; and 3) resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names), and do not unreasonably restrain competition. ICANN's policy making mission, as described previously, creates a "picket fence" around ICANN's authority -- ICANN can only mandate registry and registrar compliance with policies affecting issues inside the "picket fence"; ICANN could establish policy and/or best practices affecting issues outside the picket fence, but could not mandate registry and registrar compliance with such policies. Learn more: <https://gns0.icann.org/sites/default/files/file/field-file-attach/picket-fence-overview-23jan19-en.pdf>

⁵ Section 1.4.1 of Specification 1 of the Registry Agreement and Section 1.4.1 of the Consensus Policies and Temporary Policies Specification of the Registrar Accreditation Agreement state the following: "In addition to the other limitations on Consensus Policies, they shall not prescribe or limit the price of Registrar Services". See page 43 of the Base Registry Agreement (updated 31 July 2017): <https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-31jul17-en.pdf> and page 57 of the 2013 Registrar Accreditation Agreement: <https://www.icann.org/en/system/files/files/approved-with-specs-27jun13-en.pdf>.

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>members expressed concerns about the interplay of Registry pricing with RPMs obligations, which are discussed further in the proposed answer to Q2(a)-(b).</p>		
<p>Q2(a): Do Registry Sunrise or Premium Name pricing practices unfairly limit the ability of trademark owners to participate during Sunrise?</p> <p>Proposed Answer: The Sub Team generally agreed that some Registry Sunrise or Premium Name⁶ pricing practices have limited the ability of some trademark owners to participate during Sunrise. The Sub Team is aware of cases where the Registry Operator practices may have unfairly limited the ability of some trademark owners to participate during Sunrise, when pricing set for the trademark owners was significantly higher than other Sunrise pricing or General Availability pricing.</p>	<p>The Sunrise Sub Team recommends that the Registry Agreement for future new gTLDs 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>Q2(b): If so, how extensive is this problem?</p> <p>Proposed Answer: The Sub Team noted this problem seems sufficiently extensive that it may require a recommendation to address it. The Sub Team also noted that pricing is</p>		

⁶ **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.

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
outside the picket fence.		
QUESTION 3		
Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Q3(a): <i>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?</i></p> <p>Proposed Answer: The Sub Team noted that every Q3 sub question covers both Premium Names and Reserved Names, which are very different. Premium Names are not clearly defined, as a Registry Operator can have multiple pricing tiers.</p> <p>The Sub Team had diverging opinions on whether 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>In the absence of wide support for a change to the status quo, the Sunrise Sub Team does not recommend the creation of a challenge mechanism.</p>	
<p>Q3(b): <i>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?</i></p>		

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Proposed Answer: Since there was no wide support for a challenge mechanism within the Sub Team, the Sub Team did not consider this question.</p>		
<p>Q3(c): <i>What concerns might be raised by either or both of these requirements?</i></p> <p>Proposed Answer: Some Sub Team members noted some possible concerns, but there was no wide support within the Sub Team for those concerns. Hence the Sub Team did not develop an answer to this question.</p>		
QUESTION 4		
Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Q4(a): <i>Are Registry Operator Reserved Names practices unfairly limiting participation in Sunrise by trademark owners?</i></p> <p>Proposed Answer: Some Sub Team members believe that certain Registry Operators' Reserved Names practices may be unfairly limiting participation in Sunrise by trademark owners.</p>		
<p>Q4(b): <i>Should Section 1.3.3 of Specification 1 of the Registry Agreement be modified to address these concerns?</i></p>		

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Proposed Answer: The Sub Team did not agree that there are concerns that should be addressed with regard to Section 1.3.3 of Specification 1 of the Registry Agreement.⁷</p>		
<p>Q4(c): <i>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?</i></p> <p>Proposed Answer: The Sub Team had diverging opinions on whether Registry Operators should be required to publish their Reserved Names lists.</p> <p>Some Sub Team members noted several possible registry concerns if Registry Operators were required to publish their Reserved Names lists.</p> <p>Other Sub Team members discussed possible problems that the publication of the Reserved Names lists could solve.</p>	<p>In the absence of wide support for a change to the status quo, the Sunrise Sub Team does not recommend the publication of the Reserved Names lists by Registry Operators.</p>	
<p>Q4(d): <i>Should Registry Operators be required</i></p>		

⁷ Section 1.3.3 of Specification 1 of the Registry Agreement states the following: "Such categories of issues referred to in Section 1.2 of this Specification shall include, without limitation, reservation of registered names in the TLD that may not be registered initially or that may not be renewed due to reasons reasonably related to (i) avoidance of confusion among or misleading of users, (ii) intellectual property, or (iii) the technical management of the DNS or the Internet (e.g., establishment of reservations of names from registration). See page 43 of the Base Registry Agreement (updated 31 July 2017) here: <https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-31jul17-en.pdf>

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p><i>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?</i></p> <p>Proposed Answer: The Sub Team had diverging opinions on this matter.</p>		
QUESTION 5(a)		
Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Q5(a): 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?</p> <p>Proposed Answer: The Sub Team noted two types of Sunrise Periods: 1) Start Date Sunrise: The Registry must give 30-days notice before commencing the Sunrise. Once the Sunrise starts, it must run for 30 days at a minimum. 2) End Date Sunrise: The Registry can announce the Sunrise as late as the day the Sunrise starts, but must run the Sunrise period for 60 days at a minimum. Both types of Sunrise Periods require a total</p>	<p>The Sunrise Sub Team recommends, in general, that the current requirement for the Sunrise Period be maintained, including for 30-day minimum period for a Start Date Sunrise and the 60-day minimum period for an End Date Sunrise.</p>	

Commented [1]: Staff Note: in the Initial Report, note that this question is meant to address the concept of the right of first refusal. It refers to the possibility that a domain name has been reserved for the duration of the Sunrise Period as a means of improper circumvention. The Sub Team had diverging opinions on the extent of the problem

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>of 60 days at a minimum.⁸</p> <p>The Sub Team generally agreed that the current 30-day minimum after a Start Date Sunrise Period starts appears to be serving its intended purpose.</p>		
<p>Q5(a)(i): Are there any unintended results?</p> <p>Proposed Answer: Some Sub Team members believe that there are unintended results, such as complications when many TLDs are launched simultaneously for the Start Date Sunrise for 30 days. Other Sub Team members believe that the 30-day advance notice before the launch of a Start Date Sunrise may help mitigate the administrative burdens on the trademark owners.</p>		
<p>Q5(a)(ii): Does the ability of Registry Operators to expand their Sunrise Periods create uniformity concerns that should be addressed by this WG?</p> <p>Proposed Answer: The Sub Team generally agreed that the existing ability of Registry Operators to expand their Sunrise Periods does not create uniformity concerns that should be addressed by this WG.</p>		

⁸ See reference here: https://icannwiki.org/Sunrise_Period

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Q5(a)(iii): Are there any benefits observed when the Sunrise Period is extended beyond 30 days?</p> <p>Proposed Answer: The Sub Team had diverging opinions on whether there are benefits observed when the Start Date Sunrise Period is extended beyond 30 days.</p>		
<p>Q5(a)(iv): Are there any disadvantages?</p> <p>Proposed Answer: Some Sub Team members believe that there are disadvantages when the Sunrise Period is extended beyond 30 days, but the Sub Team did not come to a conclusion on this point.</p>		
QUESTION 5(b)		
Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Q5(b): In light of evidence gathered above, should the Sunrise Period continue to be mandatory or become optional?</p> <p>Proposed Answer: The Sub Team had diverging opinions on whether the Sunrise Period should continue to be mandatory or should become optional.</p>	<p>In the absence of wide support for a change to the status quo, the Sunrise Sub Team recommends that the mandatory Sunrise Period should be maintained.</p>	
<p>Q5(b)(i): Should the WG consider returning to the original recommendation from the IRT</p>		

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p><i>and STI of Sunrise Period OR Trademark Claims in light of other concerns, including freedom of expression and fair use?</i></p> <p>Proposed Answer: The Sub Team considered this question but did not reach a conclusion.</p>		
<p><i>Q5(b)(ii): In considering mandatory vs optional, should Registry Operators be allowed to choose between Sunrise and Claims (that is, make ONE mandatory)?</i></p> <p>Proposed Answer: The Sub Team considered this question but did not reach a conclusion.</p>		
QUESTION 6		
Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Q6(a): <i>What are Sunrise Dispute Resolution Policies (SDRPs), and are any changes needed?</i></p> <p>Proposed Answer: According to the Section 6.2.2 and 6.2.4 of the Trademark Clearinghouse Model of Module 5 of the Applicant Guidebook (AGB), SDRP is a mechanism that a Registry Operator must provide to resolve disputes regarding its registration of Sunrise Registrations.⁹ It allows</p>	<p>The Sunrise Sub Team recommends that the next version of the Applicant Guidebook for future new gTLDs be amended as follows:</p> <ol style="list-style-type: none"> 1. The new version of the AGB should include the TMCH dispute resolution procedure for challenging the validity of trademark records entered into the TMCH. This procedure is currently published at: https://www.trademark-clearinghouse.com/dispute#3.3. ICANN org should ensure that its contract for the 	

⁹ Section 6.2.2 of the Trademark Clearinghouse Model of Module 5 of the Applicant Guidebook states the following: "Sunrise Registration Process. For a Sunrise service, sunrise eligibility requirements (SERs) will be met as a minimum requirement, verified by Clearinghouse data, and incorporate a Sunrise Dispute Resolution Policy (SDRP)." Section 6.2.4

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>challenges to Sunrise Registrations related to Registry Operator’s allocation and registration policies, on four non-exhaustive grounds, including on the grounds that the registered domain name does not identically match the Trademark Record on which the Sunrise-Eligible Rights Holder based its Sunrise Registration.</p> <p>In the time between when the AGB was written and the TMCH requirements were established, the TMCH dispute procedure was created. This procedure allows for challenges to the recordal of marks in the TMCH that underlie Sunrise Registrations.</p> <p>As a result, two of AGB requirements for Registry Operator SDRPs are moot; and in any event the Registry Operator is not the best-placed party to adjudicate these challenges due to the fact that the Registry Operator is reliant on trademark eligibility information provided by the TMCH.</p> <p>Hence, the Sub Team proposed a preliminary recommendation (as noted in the column on</p>	<p>provision of TMCH services makes the operation of the TMCH dispute resolution procedure a requirement for the TMCH Provider.</p> <ol style="list-style-type: none"> 2. Section 6.2.4 of the current Trademark Clearinghouse Model of Module 5 of the Applicant Guidebook (AGB) must be amended to remove grounds (i) and (iii). 3. The Trademark Clearinghouse Model of Module 5 of the Applicant Guidebook (AGB) must be amended to include a new Section 6.2.6 – the Registry Operator will, upon receipt from the TMCH of a finding that a Sunrise registration was based upon an invalid TMCH record (pursuant to a TMCH dispute resolution procedure), immediately delete the domain name registration. Registry Operators in their applicable SDRPs will describe the nature and purpose of the TMCH challenge process and provide a link to the TMCH for reference. <p>Note: Registry Operators should continue to have the option to offer a broader SDRP to include optional/additional Sunrise criteria as</p>	

states the following: “The proposed SDRP must allow challenges based on at least the following four grounds: (i) at time the challenged domain name was registered, the registrant did not hold a trademark registration of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; (ii) the domain name is not identical to the mark on which the registrant based its Sunrise registration; (iii) the trademark registration on which the registrant based its Sunrise registration is not of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; or (iv) the trademark registration on which the domain name registrant based its Sunrise registration did not issue on or before the effective date of the Registry Agreement and was not applied for on or before ICANN announced the applications received.” See pages 296-297 here: <https://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
the right) that codifies the current practice.	desired.	
<p>Q6(b): Are SDRPs serving the purpose(s) for which they were created?</p> <p>Proposed Answer: The Sub Team had difficulty determining whether SDRPs are serving the purpose(s) for which they were created, as each TLD has its own SDRP and there is hardly any analysis of the SDRP decisions across all new gTLDs.</p> <p>The Sub Team have proposed a preliminary recommendation in relation to Q6(a) that will eliminate the non-functional parts of the SDRP requirements and codify the current practice. Some Sub Team members believe that the limited access to the TMCH and the lack of trademark information to identify whether a complaint is well-grounded makes it difficult to challenge a registration via the SDRP.</p>		
<p>Q6(c): If not, should they be better publicized, better used or changed?</p> <p>Proposed Answer: The Sub Team attempted to address this question in its proposed preliminary recommendation in relation to Q6(a).</p> <p>One Sub Team member commented that</p>		

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>whether SDRPs should be better publicized is contingent on whether they are serving the purpose(s) for which they were created. However, it is not harmful for Registry Operators to periodically remind registrants of the existence of SDRPs. One Sub Team member believes that it is not within the scope of the RPM PDP WG to recommend how SDRPs can be better used. It is up to the Registry Operators and challengers to decide.</p>		
QUESTION 7		
Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Q7(a): Can SMD files be used for Sunrise Period registrations after they have been canceled or revoked?</p> <p>Proposed Answer: The Sub Team noted that after an SMD file or its underlying trademark record has been canceled or revoked, the SMD file cannot be used for Sunrise Period registrations. However, theoretically, an SMD file might still work for an asynchronous short period of time due to the registry process.</p>		
<p>Q7(b): How prevalent is this as a problem?</p> <p>Proposed Answer: The Sub Team generally agreed that the problem does not seem to be prevalent.</p>		

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
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QUESTION 8		
Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Q8(a): Are Limited Registration Periods in need of review vis a vis the Sunrise Period? Approved Launch Programs? Qualified Launch Programs?</p> <p>Proposed Answer: The Sub Team discussed this question but was unable to conclude whether the Limited Registration Periods, Approved Launch Programs, or Qualified Launch Programs are in need of review.</p>		<p>The RPMs WG has received limited feedback that the rules for ALP and QLP do not integrate smoothly with the concept of Sunrise.</p> <p>For instance, some GEO TLDs struggled to ensure that words needed for operation of their TLD (i.e. required by the governments that approved them) were all able to be allocated or reserved for later registration before Sunrise. These words may have been recorded in the TMCH, but needed to be reserved to the governments (one example is “police” which is both a word for local law enforcement and a brand).</p>
<p>Q8(b): Are the ALP and QLP periods in need of review?</p> <p>Proposed Answer: The Sub Team discussed this question but was unable to conclude whether ALP and QLP periods are in need of review.</p>		<p>Notably, many Registry Operators did not use the ALP or QLP options and only a few used LRPs.</p> <p>In order to develop potential recommendations related to this agreed charter questioner, the Sunrise Sub Team recommends that the following guidance be</p>
<p>Q8(c): What aspects of the LRP are in need of review?</p> <p>Proposed Answer: The Sub Team discussed this question but was unable to conclude what aspects of the LRP are in need of review.</p>		

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
		<p>sought from <u>Registry Operators</u>. The Sunrise Sub Team asks Registry Operators to be specific about which program(s) (i.e., ALP, QLP, and/or LRP) they are referring in their responses to all questions and what the shortcomings of each of those mechanisms are.</p> <ol style="list-style-type: none"> 1. If you did not attempt an ALP, QLP, or LRP, was the reason for not taking advantage of those programs related to how they integrate with Sunrise? Were you able to achieve your goals in a different way (such as by combining any or all of these programs)? 2. If you did attempt an ALP, QLP, or LRP (or combination) but didn't successfully <u>use</u> any, was the reason you did not take advantage of those programs related to how they integrate with Sunrise? Were you able to achieve your goals in a different way? For instance, some Registry Operators may have used the QLP 100 (RA 3.2) (plus IDN variants) in combination with registry-reserved names to obtain the names they needed. Did you do this? If so, were you able to

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
		<p>reserve or allocate all the names you needed to?</p> <p>3. If you used an ALP, QLP, or LRP (or combination), did you experience any unanticipated trouble with integrating the Sunrise Period into your launch? Specifically, were you able to allocate all of the names you needed to allocate under those programs before the Sunrise Period?</p> <p>4. For each issue you have identified in your responses to questions 1-3, please also include a suggested mitigation path. What do you suggest the RPM WG consider to help alleviate the pain points and make those programs more useful and functional, while still respecting the trademark protection goals of the Sunrise Period? How important is it to make changes to these programs before another round (that is, are these issues worth "holding up" another round for, or are the work-arounds tolerable)?</p>

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Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
		<p>The Sunrise Sub Team also recommends that public comment be sought on the following question from non-Registry Operators:</p> <p>5. Did you experience struggles with the way ALP, QLP, or LRPs (or a combination) integrated with Sunrise, either as registrar, as a brand owner, or as a domain name registrant?</p>
QUESTION 9		
Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Q9: <i>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?</i></p> <p>Proposed Answer: The Sub Team had diverging opinions on this matter, and the Sub Team did not come to a conclusion.</p>	<p>In the absence of wide support for a change to the status quo, the Sunrise Sub Team does not recommend that 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>	
QUESTION 10		
Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Q10: <i>Explore use and the types of proof required by the TMCH when purchasing domains in the sunrise period.</i></p>		

Commented [2]: Staff Note: Liaise with the SubPro PDP and relay responses to proposed questions for community input related to Q8 and Q12.

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Proposed Answer: While the Sub Team recognized that this question has a genesis, the Sub Team did not formulate a response due to disagreement on what the question is asking.</p>		
QUESTION 11		
Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Q11(a): <i>How effectively can trademark holders who use non-English scripts/languages able to participate in Sunrise (including IDN Sunrises)?</i></p> <p>Proposed Answer: Some Sub Team members believe that Trademark holders who use non-English scripts/languages generally cannot effectively participate in Sunrise.</p>		<p>The Sunrise Sub Team suggested that public comment be sought from trademark holders who use non-English scripts/languages on the following questions:</p> <ul style="list-style-type: none"> • Did you encounter any problems when you attempted to participate in Sunrise using non-English scripts/languages? • If so, please describe problems you have encountered. • Do you have suggestions on how to enable trademark holders who use non-English scripts/languages to effectively participate in Sunrise?
<p>Q11(b): <i>Should any of them be further "internationalized" (such as in terms of service providers, languages served)?</i></p> <p>Proposed Answer: The Sub Team did not address this question as the question was unclear.</p>		

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
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QUESTION 12		
Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
<p>Q12(a): <i>Should Sunrise Registrations have priority over other registrations under specialized gTLDs?</i></p> <p>Proposed Answer: The Sub Team discussed this question but was unable to conclude whether Sunrise Registrations should have priority over other registrations under specialized gTLDs.</p>		<p>The RPMs WG has received information that the 2012 Applicant Guidebook did not foresee that some TLDs (specifically GeoTLDs, but perhaps others) might need more than 100 domain names to allocate prior to the launch of the TLD and prior to Sunrise.</p> <p>For GeoTLDs, one example is the potential need to register city / county / office / official / etc. websites in advance of Sunrise (e.g. the business of the TLD may make it critical that POLICE.[geo] is allocated to the police department, not to a brand). We have limited information about the impact of this situation and do not know how many (and to what extent) Registry Operators were affected. For instance, if you withheld names from registration ("Reserved" names), how well did that work?</p> <p>Hence, the Sunrise Sub Team recommends that the following guidance be sought from <u>Registry Operators</u>. These questions are following the questions asked related to Q8.</p> <ol style="list-style-type: none"> 1. If you had/have a business model that was in some way restrained by the 100-

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		<p>name pre Sunrise limit for names registries can reserve under RA 3.2, or the practical problems with the ALP, please share your experience and suggested path to improvement. What was your work-around, if any? For instance, if you withheld names from registration ("reserved" names), how well did that work?</p> <p>2. If the WG were to identify this as a key concern that required changes to the way the Sunrise Period operates, are there other TLDs, besides GeoTLDs that did or will encounter the same problem? What suggestions do you have for work-arounds or solutions that will not diminish the protections available from the Sunrise Period (balanced with the need to finish this work in a timely manner)?</p> <p>3. Did you initially intend (prior to the implementation of Sunrise rules in the original AGB) to offer a special Sunrise before the regular Sunrise that targeted local trademark owners? For instance, would the ability to offer a special "pre-</p>

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		<p>Sunrise” Sunrise solve any problems? If so, would you have validated the marks in some way? How would you have resolved conflicts between trademark holders that got their domains during the first Sunrise and trademark holders who had an identical trademark in the TMCH that was registered prior to Sunrise?</p>
<p>Q12(b): <i>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)</i></p> <p>Proposed Answer: The Sub Team discussed this question but was unable to conclude whether there should be a different rule for some registries, such as certain types of specialized gTLDs, based on their published registration/eligibility policies.</p>		

Commented [3]: Staff Note: Liaise with the SubPro PDP and relay responses to proposed questions for community input related to Q8 and Q12.

Table 3: Status of Individual Proposals Review

Proposal No.	Status
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Draft as of 24 July 2019

Proposed Answer	Preliminary Recommendation	Proposed Question for Community Input
Proposal #1	Review Completed - It did not receive wide support from the Sunrise Sub Team for inclusion in the Initial Report.	
Proposal #2	Review Completed - It did not receive wide support from the Sunrise Sub Team for inclusion in the Initial Report.	
Proposal #3	Review Completed - It did not receive wide support from the Sunrise Sub Team for inclusion in the Initial Report.	
Proposal #4	Review Completed - It did not receive wide support from the Sunrise Sub Team for inclusion in the Initial Report.	
Proposal #7	Review Completed - It did not receive wide support from the Sunrise Sub Team for inclusion in the Initial Report.	
Proposal #8	Review Completed - It did not receive wide support from the Sunrise Sub Team for inclusion in the Initial Report.	
Proposal #9	Review Completed - It did not receive wide support from the Sunrise Sub Team for inclusion in the Initial Report.	
Proposal #10	Review Completed - It did not receive wide support from the Sunrise Sub Team for inclusion in the Initial Report.	
Proposal #11	Review Completed - It did not receive wide support from the Sunrise Sub Team for inclusion in the Initial Report.	
Proposal #13	Review Completed - It did not receive wide support from the Sunrise Sub Team for inclusion in the Initial Report.	