

<u>Original Charter Questions</u>		<u>Sub Team Recommendations</u>	<u>Proposed Footnotes or Alternative Wording</u>		<u>Comments/ Discussion</u>	<u>Sub Team Suggestions on Data Collection</u>
<u>From the Working Group Charter</u>						
1	Should the availability of Sunrise registrations only for “identical matches” (e.g. without extra generic text) be reviewed?	<p>No change to this charter question</p> <p>KK/KD: Q1, 7, 14, 16, 18, 19 and 22</p> <p>And (A1)(A18)</p>	1	<p>NO CHANGE: Should the availability of Sunrise registrations only for “identical matches” (e.g. without extra generic text) be reviewed?</p> <p>KK/KD: Is the Sunrise Period serving its intended purpose? Is it having unintended effects? Is the TMCH Provider requiring appropriate forms of “use” (if not, how can this corrected)? Have abuses of the Sunrise Period been documented by Trademark owners? Have abuses of the Sunrise Period been documented by Registrants? [Q1, 7, 14, 16, 18, 19 and 22] <i>and</i> Is the identical match process of the Sunrise Period serving its intended purpose? Is it having any unintended consequences? Should the</p>	Note ongoing WG discussion on expanding “identical match” standard to the Claims Service - should this be considered for Sunrise too, and for what aspects of expansion (e.g. plurals, typos, mark+keyword and/or “mark contains”)?	<p>[FROM PREVIOUS DISCUSSIONS] No data needed</p> <p><i>Data needed in form as revised.</i></p>

				availability of Sunrise registrations only for identical matches be reviewed? If the matching process is expanded, how can Registrant free expression and fair use rights be protected? (A1)(A18)		
2	Is the notion of "premium names" relevant to a review of RPMs, and, if so, should it be defined across all gTLDs?	KK/KD: (Reworded Q2) (Q8) (Q15) Questions 2, 3, 8 and 15 batched and reworded into a single question	2	KK:KD: Threshold question: Is Registry pricing within the scope of the RPM WG or ICANN's review? Is there evidence that Registry sunrise or premium name pricing limits Trademark Owners' ability to participate during Sunrise? If so, how extensive is this problem? (Reworded Q2) (Q8) (Q15) REWORDED: Does a registry operator's pricing scheme (either "regular" sunrise pricing or use of "premium" pricing tiers) have a chilling effect on	Rewording intended as refocus on possibly-diminished access to the TMCH as a result. Sub Team to develop proposed definitions for: <ul style="list-style-type: none"> - Premium Names (as distinguished from Reserved Names) - Premium Pricing during Sunrise 	[FROM PREVIOUS DISCUSSIONS] Do we need to put out a call for more examples? (There may be some data from the INTA Survey, which will be released following initial presentation by Lori to the CCT-RT on 10 May). More data may also be needed more generally. [Maxim Alzoba:I do not believe that price regulation is in ICANN's remit. We need to request ICANN staff opinion.]

				<p>a brand owner's access to Sunrise?</p> <p>*What data supports the allegations?</p> <p>*Is there a "tipping point"?</p> <p>*If there is a chilling effect, how can it be mitigated?</p>		
3	<p>Following from Question 2, should there be a mechanism to challenge whether a domain is a 'premium name'?</p>	<p>Questions 2, 3, 8 and 15 batched and reworded into a single question</p> <p>KK/KD: recommend keeping this question.</p>		<p>KK/KD Charter question suggestion: Should Registries be required to create a mechanism to allow Trademark Owners in the TMCH to challenge a Premium Name for the purpose of requiring its release so that the trademark owner can register it during the Sunrise Period, and what concerns might be raised by that requirement? (Q3)</p>		
4	<p>Should there be a specific policy</p>	<p>Batched with</p>	3	<p>REWORDED:</p>	<p>The original question</p>	<p>[FROM PREVIOUS</p>

	<p>about the reservation and release of “reserved names” (e.g. modification of Section 1.3.3 of Specification 1 of the current Registry Agreement)?</p>	<p>questions 5 and 6</p> <p>Question 4 reworded</p> <p>KK/KD: Q4, Q5, Q6</p>	<p>With what frequency is a reserved name also registered in the TMCH? Is this having a chilling effect on the participation of brand owners in the Sunrise RPM?</p> <p>KK/KD: Are Registry Operator reserved names practices effectively reducing the availability of Sunrise for trademark holders? Should Section 1.3.3 of Specification 1 of the Registry Agreement be modified to address these concerns? (Q4)</p> <p>Charter question suggestion 1: Should Registry Operators be required to publish their reserved names lists -- what Registry concerns would be raised by that publication? (Q5)</p> <p>Charter question suggestion 2: Should Registries be required to provide Trademark Owners in the TMCH notice and the opportunity to register the domain name should the</p>	<p>seemed to be a “solution in search of a problem” - rewording suggested to focus the discussion on the actual problem.</p>	<p>DISCUSSIONS] It may not be possible to get the data for the first part of the reworded question.</p>
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				Registry release it – what Registry concerns would be raised by that requirement? (Q6)		
5	Should there be a public, centralized list of all reserved trademarks for any given Sunrise period?	Batched with questions 4 and 6 Question 5 slightly reworded	4	REWORDED: Should each registry publish a list of the words on their reserved names list that are also in the TMCH?	Rewording follows Sub Team discussion of the various types of reserved names different registry operators may have, and the practicality of the original Charter question vs the reworded version.	[Maxim Alzoba:Registries are prohibited from direct access to TMCH so this question leads to unimplementable solution.][Maxim Alzoba: Please be aware that in some jurisdictions legal bodies from publishing records of profanity language, and for example, we reserved a lot of names with quite bad language for the single purpose to prevent such registrations]
6	Should holders of Trademark Clearinghouse-verified trademarks be given first refusal once a reserved name is released?	Batched with questions 4 and 5 No rewording of this question	5	SLIGHT EDIT: Should holders of Trademark Clearinghouse-verified trademarks be given a right of first refusal once a reserved name is released?	Edited to make clear what “first refusal” is intended to mean. <i>Goal of this proceeding was never to create “rights.” Alternate wording “option” or</i>	[Maxim Alzoba:The current RPMs structure (including QLPs), does not allow GEOs to fulfill it's role without reserved lists and special LRP's for municipal entity, which provided GEO TLD with the letter of

					“opportunity”	support/non objection, and thus this suggestion undermines models of all GEO TLDs and needs to have proper justification.]
7	Should Sunrise Periods continue to be mandatory? If so, should the current requirements apply or should they be more uniform, such as a 60-day end-date period?	Batched with question 9 and reworded	6	<p>REWORDED: Are the Sunrise Periods as typically implemented having their intended effect? Are there things some registry operators are doing that make Sunrise more/less effective? (e.g. pricing, duration, start/end date, etc). Should we recommend standardizing some of the more effective practices?</p> <p><i>KK/KD: (a) Does the current 30 day minimum for a Sunrise Period serve its intended purpose? Are there any unintended results? Does the ability of Registry Operators to expand their Sunrise Periods create uniformity concerns that should be addressed by this WG? (Q7)</i></p>	<p>Reworded to align with discussions elsewhere in the WG/Sub Teams regarding what the intended effect of each RPM was, and whether (as implemented) it meets that objective.</p> <p><i>Putting back in the purpose of original question: looking at time period of Sunrise and whether Sunrise should be mandatory at all?</i></p>	[FROM PREVIOUS DISCUSSIONS] Is there a general need to investigate how well Sunrise is working?

				<p><i>Are there any benefits observed when the Sunrise Period is extended beyond 30 days? Are there any disadvantages?</i></p> <p><i>(b) In light of evidence gathered above, should the Sunrise Period continue to be mandatory or become optional? Should the WG consider returning to the original option of Sunrise Period OR Trademark Claims in light of other concerns including freedom of expression and fair use? In considering mandatory vs optional, should Registry Operators be allowed to choose between Sunrise and Claims (that is, make ONE mandatory)? (Q7)(Q18)</i></p>		
8	<p>Whether and how to develop a mechanism by which trademark owners can challenge Sunrise pricing practices that flout the purpose of Sunrise.</p>	<p>Questions 2, 3, 8 and 15 batched and reworded into a single question</p>		<p>DELETED due to batching</p>	<p>No specific reference to rationale for Sunrise found in IRT or STI reports, but relevant observations were noted from other documents (e.g.</p>	

					WIPO 2005 report on IP considerations in new gTLDs).	
9	Whether more can be done to improve transparency and communication about various Sunrise procedures.	Batched with Question 7 and reworded to make more specific	7	<p>KK/KD (alternative rewording): What are Sunrise Dispute Resolution Policies (SDRPs) and are any changes needed? Issues that WG might evaluate include: are SDRPs serving the purpose for which they were created? If not, should they be better publicized, better used or changed?</p> <p>REWORDED: Should more be done to improve transparency of and communication about Sunrise procedures?</p> <p>Specifically:</p> <ul style="list-style-type: none"> • Distinguish between the minimum requirements for Sunrise Dispute Resolution Policies (as set out the AGB) and the TMCH's Dispute Resolution 	Rewording, especially in the specific bullet points, focuses on the possible overlap between the AGB requirements and the TMCH policies.	

				<p>Process</p> <ul style="list-style-type: none"> ● Review any overlap between the SDRP requirements and the TMCH process ● Consider if SDRP minimum requirements are necessary, or if changes are needed 		
<u>From early Working Group and community discussions</u>						
10	How often are SMD files compromised and have to be revoked? How prevalent is this as a problem?	Question reworded	8	<p>What does the TM Owner hold when it has an SMD file? How does it use an SMD file in the Sunrise Period? If a registration in the TMCH database is not longer valid, will the TM Owner's SMD file continue to work?</p> <p>KK/KD: Can SMD files be used for Sunrise Period registrations after they have been canceled or revoked? How prevalent is this as a problem?</p>	Is this question still needed, given the documentation and information circulated (including Deloitte explanations) on how SMD files work?	

11	<p>Confirm that there is no data on how many LRP registrations were made available and in which registries - is there no data on additional voluntary mechanisms e.g. ALP?</p>	<p>No change to this question</p> <p>KK/KD: Q11 & Q12</p> <p>Also, see Q22 below</p>	9	<p>Confirm that there is no data on how many LRP (Limited Registration Period)¹ registrations were made available and in which registries - is there no data on additional voluntary mechanisms e.g. ALP (Approved Launch Programs)?</p> <p>KK/KD: LRP, ALP, QLP – Limited Registration Periods, Approved Launch Programs and Qualified Launch Programs. Are Limited Registration Periods in need of review vis a vis the Sunrise Period? Approved Launch Programs? Qualified Launch programs? Are the ALP and QLP periods in need of review? (Q11 and Q12 – Recommend confirming with Maxim who has extensively commented on this).</p>		<p>[Maxim Alzoba:The data can be mined TLD startup page (all ROs have to provide data on all of their periods of registrations there), and all registrations during such periods , which we not marked as 9999 or 9998 (Registry itself), are LRP registrations.][Maxim Alzoba:As wrote to the SubGroup before - the only GEO applicant dared for ALP, and they are ready to provide more in-depth info if required (I had a conversation with them during the GDD Summit in Madrid).]</p>
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¹ LRP: “Limited Registration Period” between the end of Sunrise and the start of General Availability with some registration restriction that limits domain names from being generally available to all registrants that are qualified to register domain names within the TLD.

12	<p>Are the ALP and QLP periods in need of review?</p>	<p>No change to this question</p>	10	<p>Are the Approved Launch Program (ALP) and Qualified Launch Program (QLP) periods in need of review²?</p>		<p>[Maxim Alzoba: Association of geoTLDs provided info that they are more or less happy with QLP (if reservation rules do not change). About ALP - we need to collect more info from the only applicant who tried it (.MADRID, and they are happy to provide answers).]</p>
13	<p>Is it possible to expand the Charter questions to include some of the underlying TMCH questions concerning TM scope in the sunrise period?</p> <p><i>(1) When the TM registered in the TMCH database is a generic or descriptive word, and sunrise is used for registering that mark as</i></p>	<p>No change to this question</p>	11	<p>REWORDED: Should the scope of the RPMs associated with the TMCH be limited to apply only to TLDs that are related to the category of goods and services, in which the dictionary terms within the trademark are protected?</p>	<p>Sub Team agreed to the suggested rewording after several meetings, and agreed to use Susan Payne's suggested phrasing.</p> <p>See also Q 22 below - the 2 need to be read/dealt with in conjunction.</p>	

² ALP: "Approved Launch Program" for which a registry operator has applied and been approved by ICANN to offer prior to Sunrise. QLP: "Qualified Launch Program" under which a registry operator is able to offer up to 100 names to third parties prior to a Sunrise period, in order to promote its TLD.

	<p><i>a domain name completely unrelated to the goods and service category of TM protection, is that fair for other/future/potential domain name registrants?</i></p> <p><i>(2) Should sunrise registrations be limited to the categories of goods and services of the TM?</i></p>	<p>KK/KD: This reworded question + Q18</p>	<p>KK/KD: In light of the evidence gathered above, should the scope of the Sunrise Period registration be limited only to gTLDs that are related to the category of goods and services in which the dictionary terms within the trademark are protected? (Reworded Q13)(Q18)</p> <p>Is it possible to expand the Charter questions to include some of the underlying TMCH questions concerning TM scope in the sunrise period?</p> <p><i>(1) When the TM registered in the TMCH database is a generic or descriptive word, and sunrise is used for registering that mark as a domain name completely unrelated to the goods and service category of TM protection, is that fair for other/future/potential domain name registrants?</i></p>		
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				<i>{2} Should sunrise registrations be limited to the categories of goods and services of the TM?</i>		
14	Is there any evidence of 'gaming' e.g. of registering a number of valuable trade mark names under the sunrise period of marks to which they do not have a traditional legal claim?	Sub Team agreed to park this question for now in view of ongoing WG discussions.		FOR DEFERRAL: Sub Team suggests that discussion of this question be deferred until the full WG has completed discussion of the TMCH structure and operations.	<i>Gaming an intricate part, unfortunately, of Sunrise and has been raised in numerous discussions of WG and block posts of reporters. Definitely a Sunrise issue. Now part of the big batched question in Q1.</i>	<i>Gathering together evidence of gaming, from blog reports, and perhaps also from registries and registrars.</i>
15	What is the relationship between premium pricing and trademark rights? To what extent do premium names correspond to registered trademarks?	Questions 2, 3, 8 and 15 batched and reworded into a single question		DELETED due to batching.		
16	Further explore "use" and the types of proof required by the TMCH	Earlier Google Doc comment on the possibility that this may be covered by the broader WG discussions on the TMCH			For further Sub Team discussion.	
General Questions from the Working Group Charter (not related to any specific						

<u>RPM)</u>						
17	Do the RPMs work for registrants and trademark holders in other scripts/languages, and should any of them be further “internationalized” (such as in terms of service providers, languages served)?					For general WG review (not specific to Sunrise).
18	Do the RPMs adequately address issues of registrant protection (such as freedom of expression and fair use)?					For general WG review (not specific to Sunrise). <i>Definitely a Sunrise issue (batched with issues of match expansion above)</i>
19	Have there been abuses of the RPMs that can be documented and how can these be addressed?					For general WG review (not specific to Sunrise). <i>Definitely a Sunrise issue</i>
20	Examine the protection of country names and geographical indications, and generally of indications of source, within the RPMs					Currently under discussion by the full WG.
21	In the light of concrete cases (case law) and from the perspective of					For general WG review (not specific to

	owners of protected signs and of marks, which are the identified deficits of the RPMs?				Sunrise).	
<u>Claims</u>						
22	Is the TMCH and the Sunrise Period allowing key domain names to be cherry-picked and removed from New gTLDs unrelated to those of the categories of goods and services of the trademark owner (e.g., allowing “Windows” to be removed from a future .CLEANING by Microsoft)?	<p>KK/KD: Ques 22(reworded Q12) question + Q18</p> <p>Sub Team agreed that this question belongs under Sunrise Registrations, not Claims. (note that the Claims Sub Team</p>	12	<p>KK/KD: Should the Sunrise Period be reevaluated for Special Purpose gTLDs (such as GEOs and Specialized gTLDs) to properly balance Trademark owner's interests with those of Registrants whose use of a second level domain name is in accordance with the Registry Operator's plan for the development of the TLD. If so, what changes should be made to the Sunrise Period? (Reworded Q22)(Q18)</p> <p>Examples include: POLICE.PARIS and POLICY.NYC for Geo gTLDs and WINDOWS.CONSTRUCTION for Specialized gTLDs.</p> <p>Does Sunrise, as currently implemented, affect the balance of interests between</p>	<p>Moved from Claims Sub Team.</p> <p>KD Note: Special Purpose TLD is sort of a catch-all term for TLDs that generally have some sort of restrictions or eligibility criteria...it's not an ICANN term and we're open to other terminology.</p>	

		<p>recommends that this be referred to the full WG for an overarching discussion)</p> <p>Question was reworded to be more neutral</p>		<p>a brand owner's current rights and zone of expansion and the availability of "dictionary" terms for general registration in accordance with the registry operator's plan for the development of the TLD?</p>		
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