

Instructions:

This table was built to assist the Sunrise Data Review Sub Team in its analysis as to whether, and how, the previously collected Sunrise data (between December 2016 and March 2018) answer each of the final agreed Charter questions.

- In the **Sunrise Tab** of the [analysis tool](#), Staff have included excerpts, as well as the relevant page/slide reference, from the previously collected data that staff believe may assist in answering the final agreed Charter questions. Summaries of the excerpts are included in Column B.
- The excerpts cited by Staff are nonexclusive; Sub Team members are welcome to download and reference the actual documents, linked from the **Source Tab**, to cite relevant information that may help answer the final agreed Charter questions.
- When providing input, please note the source name and page/slide number of the previously collected data.

Sunrise Charter Question 1

(a) Should the availability of Sunrise registrations only for identical matches be reviewed?

(b) If the matching process is expanded, how can Registrant free expression and fair use rights be protected and balanced against trademark rights?

| Sub Team Member Name | Do the previously collected data help answer this Sunrise Charter Question? | If yes, which sub question(s) do the survey results assist? | How do the data assist (e.g. "Information X in document Y demonstrate Z")? | Source Name & Page/Slide Reference |
|----------------------|---|---|---|--|
| George Kirikos | Yes* | a | <p>[my usual disclaimer for Yes with an asterisk, given limited number of responses and other statistical issues]</p> <p>Section 2.3.1 of the Deloitte TMCH Report (March 2013 - February 2017) stated there were 209 cases of abused labels, with 375 abused labels in total, compared to 38,172 successfully verified records. This would suggest limited current usage of "expanded match" via those abused labels. Same stats in answer to Q16 of January 2017 document.</p> <p>According to sections 2.1.1 and 2.1.2, there were 28,549 total verified trademark</p> | <p>Deloitte TMCH Report, March 2013 - February 2017, section 2.3.1, 2.2.1.2, 2.1.1, 2.1.2</p> <p>January 2017 Deloitte</p> |

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| | | | records, and 57,393 total number of domain names/labels derived from those trademark records, imply that there is already a "doubling" (expansion) of the matches, compared to a strict 1:1 ratio. | responses to initial questions from TMCH Data Gathering Sub Team, Q16 |
| Kathy | I think so | a | Deep in an early questionnaire, Deloitte wrote: "We have not received any complaints regarding the sunrise eligibility requirements and our verification process." | QUESTIONS ... TO THE TRADEMARK CLEARINGHOUSE PROVIDER Updated as of 5 December 2016, Ques 15 |
| Kathy | Maybe | a | It is possible for the identical matches in Sunrise to be narrowed -- to a way corresponding to the gTLD (e.g., restricted registration gTLDs like .BANK and .ATTORNEY). Interestingly, Deloitte indicates that just such capability has been built into the TMCH database. "Upon request of the community, the SMD-file was designed in such a way that the Registry Operator had at all times the necessary information to limit registration by | Above, Ques 17 |

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| | | | goods and services themselves. As such the TMCH has not been involved in the management or decisions in relation to any restrictions implemented by the Registry Operator." | |
| Kathy | Worth noting | a | Impact of design mark acceptance into the TMCH likely has huge implications, even for identical matches in Sunrise. I'll cut and paste the answer from Deloitte in its follow-up answers, Ques 6, bullet 2: Deloitte responds: "These are mentioned in the TMCH guidelines: For those marks that do not exclusively consist of letters, words, numerals or special characters, the verification agents will verify the trademark name based upon the image on the trademark certificate. In the event that there is any doubt about the order in which the characters appear, the description provided by the Trademark office will prevail. In the event no description is provided, such Trademark records will be allocated to a Deloitte internal team of specialists with thorough knowledge of both national and regional trademark law who will conduct independent research on how the trademark is used, e.g. check website, or they may request that the trademark holder or agent provide additional documentary evidence on how the Trademark is used." | FOLLOW UP QUESTIONS FOR DELOITTE FROM THE GNSO'S REVIEW OF ALL RIGHTS PROTECTION MECHANISMS (RPM) REVIEW POLICY DEVELOPMENT PROCESS WORKING GROUP Updated 5 March 2017, Ques 6 |
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