

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 10:

Explore use and the types of proof required by the TMCH when purchasing domains in the sunrise period.

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		According to the answer to Q15 of the January 2017 Deloitte responses to initial questions from TMCH Data Gathering Sub Team, 4% of the active TMCH records are not sunrise eligible (i.e. 96% are sunrise eligible), implying Deloitte is accepting the "proof of use" 96% of the time. (see discussion in my comments in Sunrise Preamble document about how this can be abused, i.e. de minimis or token marks)	January 2017 Deloitte responses to initial questions from TMCH Data Gathering Sub Team, Question 15
Griffin Barnett	Yes		Deloitte Further Responses: - Incorrect POU submissions are also clarified by the provision of	Listed in Prior Column

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			<p>standardized external comments on which trademark holders and agents can rely to correct the POU submission. The Trademark Clearinghouse has clearly defined proof of use verification as follows: "When examining the sample of proof of use submitted by the trademark holder or trademark agent it will be verified that the sample submitted is a sample that evidences an effort on behalf of the trademark holder to communicate to a consumer so that the consumer can distinguish the product or services of one from those of another." Therefore, examples of acceptable evidence would include items from either of the following categories: 1. Labels, tags, or containers from a product. 2. Advertising and marketing materials (including brochures, pamphlets, catalogues, product manuals, displays or signage, press releases, screen shots, or social media marketing materials). Furthermore, the Trademark Clearinghouse has submitted a "how to submit a proof of use manual" on its marketing website which clearly explains the purpose of a sample of proof of use and includes examples of (im)permissible samples. Please refer to http://www.trademarkclearinghouse.com/sites/default/files/files/download/s/how_to_submit_a_proof_of_use_v1.1.pdf - The range of samples accepted to support verification of Proof of Use by the Clearinghouse is intended to be flexible to accommodate practices from multiple jurisdictions. - The sample Proof of Use must be an item that evidences Trademark Holder communication to the consumer to distinguish products or services from another Trademark Holder. - The sample submitted must contain the complete name of the registered trademark as recorded in the</p>	
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			trademark records and as verified and determined correct. - The Clearinghouse will not assume the role of making determinations on the scope of rights associated with a recorded trademark or the labels it can generate. Deloitte welcomes any further suggestions from the community or ICANN to further define POU standards across the different trademark jurisdictions.	
David McAuley	No		Again referring to AG Independent Review of TMCH and follow-ups	
David McAuley	No		Referring to INTA Survey - slides 30 and 31 relate to profit	

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