

# Public Comment Summary Report

## Proposed Updates to the Trademark Clearinghouse Requirements

**Open for Submissions Date:**

Thursday, 18 December 2025

**Closed for Submissions Date:**

Tuesday, 27 January 2026

**Summary Report Due Date:**

Tuesday, 17 February 2026 (extended from Tuesday, 10 February 2026)

**Category:** Policy

**Requester:** ICANN org

**ICANN organization contact(s):**

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**Open Proceeding Link:**

<https://www.icann.org/en/public-comment/proceeding/proposed-updates-to-the-trademark-clearinghouse-requirements-01-12-2025>

**Outcome:**

In total, five Public Comments were submitted by stakeholders from across the community on the proposed updates to the Trademark Clearinghouse (TMCH) Requirements.

Commenters considered whether the revised Section 2.3.6 of the TMCH Requirements and the proposed language for new Section 2.3.7 are consistent with Sunrise Final Recommendation #8 from the RPM [Phase 1](#) PDP. Commenters also considered the 2026 Round-related updates, including changes to variant terminology made to align with the 2026 Base gTLD Registry Agreement (RA). In addition, commenters considered other updates, such as refreshed links to TMDB documentation in Section 1.1 of the TMCH Requirements and the relocation of certain provisions (e.g., the Qualified Launch Program) from addenda into the main body of the agreement to create a more streamlined structure.

All Public Comments received were reviewed and carefully considered by ICANN org. Any substantive changes required to the proposed updates to the TMCH Requirements will be reviewed with the Subsequent Procedures (SubPro) Implementation Review Team (IRT) to the extent related to policy implementation.

## Section 1: What We Received Input On

This Public Comment proceeding asked input from the ICANN community on proposed updates to the TMCH Requirements. The TMCH Requirements describe the detailed requirements for registry operators in relation to their [Sunrise and Trademark Claims periods](#). Updates include the implementation of Sunrise Final Recommendation #8 from the [first phase](#) of a Policy Development Process (PDP) on a Review of All Rights Protection Mechanisms in All gTLDs and revisions to account for the next expansion of the generic top-level domain (gTLD) space.

The RPM Phase 1 PDP [proposed](#) a set of enhancements to improve the effectiveness of RPMs in the subsequent round and recommended that these updates should apply to registry operators in the next gTLD expansion round. Sunrise Final Recommendation #8 is one of these enhancements, and it is reflected in the proposed updates to the TMCH Requirements. As such, new gTLD registry operators under the 2026 Base RA will be required to comply with the updated TMCH Requirements, which are being revised as outlined below.

Please also note that the draft of the TMCH Requirements that was released for Public Comment is based on the [updated version](#) following feedback received during the August 2023 [Public Comment](#) on Proposed Updates to Existing RPM Documentation. This updated version of the TMCH Requirements, developed in consultation with the RPM Implementation Review Team (IRT) as part of the ongoing RPM Phase 1 Implementation [project](#), implements three recommendations (Trademark Claims Final Recommendations 2, 5, and 6) from the RPM Phase 1 PDP [Final Report](#), which was [adopted](#) by the ICANN Board in January 2022. Accordingly, this [revised](#) language (located in sections 3.3.1.2, 3.4.3, 3.4.3.1, 3.4.3.2, 3.4.4, and in Exhibits A and B of the Trademark Claims Notice within the TMCH Requirements) is considered final with respect to the 2026 Base RA.

ICANN org asked input from the ICANN community on the following proposed updates to the TMCH Requirements, as compared to the [TMCH Requirements](#) from February 2025:

- **Sunrise Final Recommendation #8 (RPM Phase 1 PDP):** Section 2.3.6 of the TMCH Requirements has been revised, and draft language has been proposed for Section 2.3.7, in line with Sunrise Final Recommendation #8. Under this recommendation, the Sunrise Dispute Resolution Policy (SDRP) should no longer be intended to address challenges to Sunrise registrations based on an invalid Trademark Record as the registry operator is not the best-placed party to adjudicate challenges to the Trademark Record validity in the TMCH because the registry operator is reliant on trademark eligibility information provided by the TMCH. Instead, the recommendations note that the TMCH dispute resolution procedure should be the primary mechanism for such challenges as it is the TMCH Validation Provider's role to confirm the accuracy of the information submitted by a Trademark Holder or Trademark Agent (on behalf of a Trademark Holder) and that the Trademark Record meets the eligibility requirements for inclusion in the Clearinghouse. In this context, the registry operator must immediately suspend the domain registration to allow the registrant to challenge the validity of the Trademark Record through the TMCH dispute resolution process. These updates are being made to the TMCH Requirements to reflect this change.
- **Next Round-Related Updates:** Updates include changes to variant terminology, such as replacing "IDN Variants" with "variant second-level names" to align with the 2026 Base RA. Other updates were developed so that the revised TMCH Requirements could apply to registry operators under the 2026 Base RA as well as those operating under the existing [Base](#) RA (approved by the ICANN Board on 21 January 2024).

- **Other Updates:** Updates include refreshed links to TMDB documents in Section 1.1 of the TMCH Requirements and moving provisions directly into the body of the agreement (e.g., Qualified Launch Program Addendum) rather than in the addendum for a more streamlined approach.

In addition, to ensure consistency across gTLDs and maintain a uniform approach to rights protection, ICANN org proposes that the updated TMCH Requirements also apply to existing gTLD registry operators from the 2012 Round, those on the revised [Base RA](#) (approved by the ICANN Board on 21 January 2024). This update is expected to have minimal operational impact while promoting alignment with the latest framework. See further below for more information on the expected impacts on existing gTLD registry operators and their registrars.

## ***Expected Impacts***

### **Existing Registry Operators**

- For existing registry operators that are or will be operating a Trademark Claims Service must check that the acceptance date is at most 12 months in the past. (*TMCH Requirements, Section 3.4.4; revised to implement Trademark Claims Final Recommendation #5 from the RPM Phase 1 PDP [Final Report](#)*).
- For existing registry operators that have not yet launched their TLDs, the requirement to report Qualified Launch Program (QLP) domain names is revised such that registry operators are now required to provide the lists to ICANN only upon request, rather than automatically. (*TMCH Requirements, Section 4.5.1.6.2; revised to account for the next expansion of the gTLD space.*)

### **Registrars**

- Must also deliver the Claims Notice in the same language as the registration agreement (previously phrased as “should”) and the Claims Notice must include a link to a webpage on the ICANN org website which contains translations of the Claims Notice in all six UN languages. (*TMCH Requirements, Section 3.3.1.2; revised to implement Trademark Claims Final Recommendation #2 from the RPM Phase 1 PDP [Final Report](#)*.)
- Must provide the registry operator with the exact date and time the registrant accepted the Claims Notice, which must occur within seven days prior to the Effective Allocation time. For pre-registration scenarios, the acceptance timestamp may be older than seven days provided that the Claims Notice information has not changed, in which case the acceptance may remain valid for up to 12 months. If the Claims Notice information has changed, the registrant must acknowledge the updated Claims Notice, and that acceptance is valid for up to seven days. (*TMCH Requirements, Sections 3.4.3, 3.4.3.1, 3.4.3.2; revised to implement Trademark Claims Final Recommendation #5 from the RPM Phase 1 PDP [Final Report](#)*.)
- Must provide prospective domain name registrants with the updated Claims Notice using the revised language specified in the Claims Notice Form. (*TMCH Requirements, Trademark Claims Notice Template for Registrars in Exhibit A; revised to implement Trademark Claims Final Recommendation #6 from the RPM Phase 1 PDP [Final Report](#)*.)

To this end, the Guided Submission form asked community feedback on the updates to the TMCH Requirements, as compared to the TMCH Requirements from February 2025, and on the expected impacts outlined above.

## Section 2: Submissions

Organizations and Groups:

Name	Submitted by	Initials
Deloitte (Trademark Clearinghouse provider)	Kenny Van Cauter	D
Registries Stakeholder Group	Registries Stakeholder Group	RySG
Intellectual Property Constituency	Margaret Milam	IPC
Business Constituency	Business Constituency	BC

### Section 2a: Late Submissions

At its discretion, ICANN org accepted late submissions, which have been appended to this summary report.

Organizations and Groups:

Name	Submitted by	Initials
Noncommercial Stakeholder Group	Farzaneh Badiei	NCSG

## Section 3: Summary and Analysis of Submissions

ICANN appreciates the time, dedication, and participation in this proceeding and is grateful to those who provided timely feedback.

A summary of all comments is provided below. ICANN has organized this report to include a summary of the comments received by question, followed by ICANN’s corresponding analysis.

**Q1. Do the revisions to Section 2.3.6 and the proposed draft language for the new Section 2.3.7, updated in accordance with Sunrise Recommendation #8, align with the recommendation and clearly outline the applicable requirements?**

***Comment Summary:***

RySG, IPC and BC agree that the revisions to Section 2.3.6 and the proposed draft language for the new Section 2.3.7, updated to reflect Sunrise Recommendation #8, align with the recommendation and clearly outline the applicable requirements. Furthermore, BC stresses that implementation must include adequate procedural safeguards, especially around any immediate

suspension requirements, to prevent abuse, reverse domain name hijacking, or disproportionate disruption to legitimate business operations.

D (current TMCH provider) and NCSG, however, believe that the revisions to Section 2.3.6 and the proposed draft language for the new Section 2.3.7 do not align with the recommendation or clearly outline the applicable requirements.

D emphasizes that not all disputes about Sunrise-registered domain names not corresponding with the Trademark Record stem from inaccurate assessments by the current TMCH provider; some may involve domain labels not covered by the Signed Mark Data (SMD) file. As such, D requests clarification on the scope of the TMCH dispute resolution procedure, citing the official scope including disputes brought by Trademark Holders or Trademark Agents alleging that the Clearinghouse incorrectly rejected a Trademark Record, disputes brought by third parties alleging the TMCH incorrectly accepted a Trademark Record, or if a Trademark Record has become invalid due to new information that was not available at the time of the original review.

Additionally, regarding proposed Section 2.3.7 of the TMCH Requirements, D notes the absence of specified communication protocols or timelines between the current TMCH provider and registry operators, as well as who is responsible for facilitating such communication. As such, D requests that ICANN provide guidance on these procedural aspects.

NCSG emphasizes that proposed Section 2.3.7 of the TMCH Requirements creates unnecessary delays in making domain names available after a Sunrise registration is deleted. The 60-day waiting period before a domain returns to the availability pool mirrors the dispute-filing window in Section 3.2.2 of the TMCH dispute resolution procedure, during which a Trademark Agent or Holder may challenge an invalid Trademark Record. However, NCSG believes the two situations serve different purposes: the dispute period exists to give parties time to prepare, while deleting a Sunrise registration should simply make the domain available.

NCSG also notes that the phrase “whichever is later” introduces ambiguity, appearing to refer either to the 60-day period or the conclusion of a challenge, and unnecessarily extends the timeline. It should read “whichever is earlier” or be removed entirely, since disputes under 1.2(2) and (3) are resolved within 15–20 days with no right of appeal. Accordingly, the 60-day timeframe under 1.2(1) would never apply in the Sunrise dispute context.

NCSG observes that Section 2.3.7 fails to clarify that deleted Sunrise domains should be returned to the general availability pool. NCSG explains that the purpose of the Sunrise period is to allow qualified trademark holders to register domain names fairly, not for registries to reserve or select names in advance. A third-party challenge during Sunrise would only arise if the challenger is also a TMCH-eligible registrant for the same term and, like the original Sunrise registrant, seeks the domain in the new gTLD. In such cases, a successful challenger should be able to register the domain without delay. NCSG emphasizes that deleted Sunrise domains must immediately return to the availability pool to preserve fairness and the intended function of the Sunrise period.

***Analysis:***

ICANN org appreciates RySG, IPC, and BC’s support for the revisions to Section 2.3.6 and proposed Section 2.3.7 reflecting Sunrise Recommendation #8.

ICANN org acknowledges D's request for clarification on the scope of the TMCH Dispute Resolution Procedure and their comment that not all Sunrise Registration challenges asserting a mismatch between a registered domain name and the underlying Trademark Record are a result of an inaccurate assessment by the TMCH.

Rather, D's comment notes that challenges arising from a registry operator's acceptance of a Sunrise registration for a domain name label that is not included in the corresponding SMD file do not fall within the scope of the TMCH Dispute Resolution Procedure. Such matters are appropriately addressed through the registry operator's Sunrise Dispute Resolution Policy (SDRP), consistent with its allocation and registration practices. No expansion of the scope of the TMCH dispute resolution procedure was intended by the amendments to Sections 2.3.6 and 2.3.7 of the TMCH Requirements and ICANN is looking into clarifying this scope appropriately and will discuss with the IRT and reflect any updates as needed.

ICANN org acknowledges D's observation regarding communication protocols and timelines between the TMCH and registry operators under Section 2.3.7. For clarity, Section 2.3.7 establishes the registry operator's obligation to suspend a Sunrise Registration once notified by the TMCH that the underlying Trademark Record is deemed invalid under the TMCH dispute resolution procedure. The registry operator has the obligation to suspend the Sunrise Registration until further notice from the TMCH. The operational details regarding how such notifications are delivered, including communication channels, timelines, and designated points of contact, will be addressed in a future agreement with the TMCH provider or set out in separate documentation, to be developed in due course, with ICANN org working in coordination with the TMCH provider to define the operational details.

ICANN org acknowledges NCSG's concern that the 60-day period during which a Trademark Record must remain invalid to allow the Sunrise registrant to challenge a finding that a Sunrise registration was based on an invalid Trademark Record before a Sunrise registration is deleted may delay the return of a domain name to the availability pool. Furthermore, ICANN org also recognizes NCSG's point that under TMCH dispute resolution procedure, the only disputes available to third parties (Sections 1.2(2) and (3)) are resolved within 15 calendar days (or 20 days during the Early Bird Registration period), with no right of appeal, meaning the 60-day timeframe under Section 1.2(1) would not apply in this context. Lastly, ICANN org notes NCSG's comment regarding the addition of "whichever is later."

In coordination with the IRT, ICANN org will consider revisions to Section 2.3.7 of the TMCH Requirements to defer to the TMCH dispute resolution procedure with respect to the timeframe to challenge the finding pursuant to the TMCH dispute resolution procedure to better align Section 2.3.7 with Sunrise Final Recommendation #8 and the operation of the TMCH dispute resolution procedures.

In addition, ICANN org notes that Section 2.3.7 of the updated TMCH Requirements does not specify that a deleted domain must return to the general availability pool because doing so would create a new obligation for registry operators that is not mandated by the Sunrise Final Recommendation #8. Currently, registries retain discretion over whether to reserve or release a domain name after a Sunrise registration is deleted. Section 2.3.7 already provides that a domain will be deleted if the Sunrise Registration remains invalid. After deletion, it is up to the registry operator to determine how to handle the domain. Including language requiring automatic return to the availability pool would impose an additional obligation beyond what is contemplated by the Sunrise Final Recommendation #8.

**Q2. Do you have any comments or feedback on the updates made to the TMCH Requirements, specifically regarding the changes intended to account for the next expansion of the gTLD space?**

***Comment Summary:***

RySG did not provide comments or feedback on the updates to the TMCH Requirements, particularly those addressing the next expansion of the gTLD space, while D (current TMCH provider) refers back to their feedback submitted in response to the previous question.

BC and IPC support the proposed updates to the TMCH Requirements intended to account for the next expansion of the gTLD space, however, BC encourages ICANN to closely monitor the extended pre-registration period to ensure notices do not become outdated in ways that could undermine business certainty.

IPC proposes a clarification to Section 4.5.1.1 regarding Qualified Launch Program (QLP) domain name allocation limits. The December 2025 draft removes the phrase “up to” before “one hundred (100) domain names,” which could create ambiguity by implying a fixed or required number rather than a maximum cap. The IPC urges restoring “up to” to clearly preserve the intended ceiling of 100 names. The IPC also recommends clarifying that any “variant second-level names” must be directly tied to, and necessary for, the intended purpose of the underlying QLP domain name, to prevent the provision from being used to exceed the 100-name limit. Lastly, the IPC notes an incorrect section reference in Section 4.5.1.7, where a reference to “Section 4.1” should be corrected to “Section 4.5.1.”

NCSG raises concerns that the proposed TMCH updates further entrench it as a privileged layer within the DNS, prioritizing trademark holders over domain registrants and end users. NCSG notes that ICANN’s limited consultation with non-commercial stakeholders during ICANN84 in Dublin overlooks perspectives critical to preventing overexpansion of IP rights. Further, NCSG notes that the TMCH should not give trademark holders special advantages in the global naming system; any expansion of its role must be evaluated based on proportionality, due process, and accessibility, rather than operational convenience for registries or rights holders. The shift from Sunrise Dispute Resolution mechanisms to exclusive TMCH dispute resolution procedures risks automatic domain suspensions without independent adjudication, weakening due process and registrant protections.

NCSG also points out that TMCH dispute mechanisms are private and opaque, lacking procedural safeguards like the UDRP or courts, and centralizing trademark validity disputes there increases the risk of errors and overbroad claims that can lead to domain takedowns. In addition, NCSG explains that these updates reinforce trademark exceptionalism, favoring well-resourced actors and mature jurisdictions, while increasing legal risk and deterrence for individuals, small organizations, and users in the Global South. Thus, NCSG calls for a registrant-focused impact assessment, enhanced transparency, and robust oversight to ensure fairness, proportionality, and accountability. Lastly, NCSG points out that there are currently no mechanisms to ensure TMCH transparency or accountability after using DRPs, so ICANN and the Community must implement oversight procedures to monitor and review TMCH actions, prevent misuse, and ensure fair administration.

***Analysis:***

ICANN org notes that the RySG did not provide comments on these updates, and that D (the current TMCH provider) referred back to feedback previously submitted. ICANN org acknowledges BC's support for the updates and its recommendation that the extended pre-registration period be closely monitored to ensure notices remain current and maintain business certainty.

ICANN org further acknowledges the IPC's proposed clarification to Section 4.5.1.1 regarding QLP domain name allocation limits. ICANN org notes the IPC's recommendation to restore "up to" before "one hundred (100) domain names" to preserve the intended maximum, and to clarify that variant second-level names must be necessary and directly tied to the underlying QLP domain name. ICANN org also notes the IPC's identification of an incorrect section reference in Section 4.5.1.7, where a reference to "Section 4.1" should be corrected to "Section 4.5.1."

ICANN org notes that the intent of Section 4.5.1.1 is to establish a cap with respect to such QLP Names, not a required number. Accordingly, ICANN org agrees to reinstate "up to" before "one hundred (100) domain names".

With respect to "variant second-level names," ICANN org acknowledges the concern and agrees to revise to "including" rather than "plus" their variant second-level names, so that any permitted variants are counted within the 100-domain cap and are directly related to, and necessary for, the intended purpose of the underlying QLP domain name. Finally, ICANN org agrees that the reference in Section 4.5.1.7 to "Section 4.1" is incorrect and will correct it to "Section 4.5.1."

ICANN org notes NCSG's concerns regarding the TMCH updates and potential impacts on registrants. ICANN further notes that the TMCH Requirements were developed by the ICANN community during the 2012 round as a set of trademark protections and is further aligned with the RPM Phase 1 PDP, including TMCH Final Recommendation #2 which states in relevant part "...the status quo (i.e. the current rules as applied to the gTLDs delegated under the 2012 New gTLD Program round) should be maintained.". ICANN org also notes NCSG's comment that, during ICANN84 in Dublin, ICANN Staff met only with commercial stakeholders and not with the NCSG for input on proposed updates to the TMCH. ICANN org would like to clarify that the purpose and substance of these informal meetings in Dublin was to socialize proposed efficiency and operational enhancements to the TMCH intended to reduce complexity, without altering the TMCH's objectives or functionality or changing protections for trademark holders, and to identify potential concerns or support ahead of initiating a formal Public Comment process on the proposed enhancements.

Several of these enhancements had been [presented](#) previously to the SubPro IRT in February 2025. After questions were raised by members of the Intellectual Property Constituency (IPC), ICANN org held additional informal discussions at ICANN84 with several IPC members, focusing exclusively on two proposed TMCH enhancements: replacing real-time registrar queries of the Trademark Database (TMDB) with periodic TMDB downloads, and publishing minimum requirements for TLD start-up plans instead of requiring submission of such plans for ICANN org review.

Ultimately, ICANN org did not move forward with incorporating these proposed operational changes (which were noted to the IRT) into the revised TMCH Requirements that were published for comment.

**Q3. Do you have any comments or feedback on any of the other general updates included in the TMCH Requirements?**

***Comment Summary:***

RySG and D did not provide any comments or feedback on any of the other general updates included in the TMCH Requirements. BC welcomes the general updates included in the TMCH Requirements, particularly those that improve operational efficiency and consistency.

IPC supports adoption of the December 2025 draft TMCH Requirement updates, subject to a minor clarification in Section 4.5.1.1, correction of a section reference in 4.5.1.7, and a few implementation considerations. The IPC believes the updates will strengthen trust in the New gTLD Program's RPMs and urges ICANN to provide clear guidance and training for registries and registrars ahead of the 2026 Round launch, to monitor the TMCH dispute resolution process, and to continue engaging with stakeholders as the requirements are implemented.

NCSG observes that Sections 3.4.3 and 3.4.4 lack clarity, with the "Note" in 3.4.4 being especially confusing. It is unclear why Claims Notices have a 12-month expiration and why registry operators must ensure the acceptance datetime is no more than 12 months old.

***Analysis:***

ICANN org notes that RySG and D did not submit comments addressing the other general updates included in the TMCH Requirements. ICANN org welcomes the BC's support for the general updates, particularly those intended to improve operational efficiency and consistency.

ICANN org acknowledges the IPC's support for the draft TMCH Requirement updates as outlined in the December 2025 redline, subject to a minor clarification in Section 4.5.1.1, correction of a section reference in Section 4.5.1.7, and certain implementation considerations. ICANN org further acknowledges the IPC's comment regarding the importance of clear guidance and training for registries and registrars and will provide resources to support the consistent application of the new requirements ahead of the 2026 Round launch.

ICANN org notes NCSG's comments regarding the language in Sections 3.4.3 and 3.4.4 of the updated TMCH Requirements, which was developed in consultation with the RPM IRT as part of the ongoing RPM Phase 1 Implementation project. These sections implement the guidance in Trademark Claims Final Recommendation #5 to address operational challenges in presenting Claims Notices to pre-registered domain name registrants, given the constraints of the 48-hour expiration period.

Section 3.4.3 requires registrars to provide the registry operator with the exact date and time the registrant accepted the Claims Notice, which must occur within seven days prior to the Effective Allocation Time (as defined in RFC9361). Under this update, the Claims Notice no longer expires after 48 hours and instead remains valid for 168 hours (seven days), providing additional time to address issues such as credit card payment failures. Previously, failure to acknowledge the notice within 48 hours allowed another party to register the domain name. In pre-registration scenarios, the acceptance timestamp may be older than seven days, provided the Claims Notice information has not changed; in such cases, the acceptance may remain valid for up to 12 months.

Section 3.4.4 further requires that the Claims Notice expiration date be set to 12 months from issuance, ensuring that an acceptance can remain valid for up to one year. For example, a Claims Notice presented to a potential registrant as far as five months earlier may still be relied upon if its content remains unchanged.

The “Note” in section 3.4.4 clarifies that registry operators must confirm that the registrant’s acceptance occurred within ICANN’s allowed timeframe by ensuring the Claims Notice was unexpired, specifically, that the acceptance date is no more than 12 months old.

#### **Q4. Do you have any comments or feedback on the expected impacts to gTLD registry operators on the revised Base gTLD RA?**

##### ***Comment Summary:***

RySG, D, IPC and NCSG did not provide any comments or feedback on the expected impacts to gTLD registry operators on the revised 2026 Base RA. BC noted that from their perspective, the revised 2026 Base RA will have a net positive impact by improving clarity, streamlining obligations, and reducing compliance complexity. Applying the updated TMCH Requirements uniformly across the 2012 and 2026 rounds is expected to enhance predictability, lower portfolio management costs, and strengthen confidence in the DNS as the 2026 Round approaches.

##### ***Analysis:***

ICANN org notes that RySG, D, IPC and NCSG did not submit comments specifically addressing the expected impacts of the revised 2026 Base RA on gTLD registry operators. ICANN org appreciates the BC’s view that the revisions are expected to have a net positive impact by improving clarity, streamlining obligations, and reducing compliance complexity. ICANN org also recognizes BC’s observation that applying the updated TMCH Requirements uniformly across the 2012 and 2026 rounds may enhance predictability, reduce portfolio management costs, and strengthen confidence in the DNS as the 2026 Round approaches.

## **Section 4: Next Steps**

All Public Comments received were reviewed and carefully considered by ICANN org. Any substantive changes to the proposed updates to the TMCH Requirements, to the extent they relate to policy implementation, will be reviewed with the SubPro IRT to determine whether further revisions to the TMCH Requirements are needed based on the input received.

# Proposed Updates to the Trademark Clearinghouse Requirements

## NCSG Comments

January 27th, 2026 (*deadline*)

### About NCSG

NCSG represents the interests of non-commercial domain name registrants and end-users in formulating the Domain Name System policy within the Generic Names Supporting Organisation (GNSO). We are proud to have individual and organizational members in over 160 countries, and as a network of academics, Internet end-users, and civil society actors, etc, we represent a broad cross-section of the global Internet community. Since our predecessor's inception in 1999, we have facilitated global academic and civil society engagement in support of ICANN's mission, stimulating an informed citizenry and building their understanding of relevant DNS policy issues.

### About this Public Comment Proceeding (Background)

On 16 January 2022, the ICANN Board [adopted](#) all thirty-five (35) recommendations from the [Final Report](#) of the first phase of the Policy Development Process (PDP) on a Review of All Rights Protection Mechanisms (RPMs) in All Generic Top Level Domains (gTLDs) and directed ICANN org to commence implementation. Phase 1 focused on reviewing all the RPMs launched under the 2012 New gTLD Program including the Trademark Clearinghouse (TMCH).

While most of the outputs from the RPM Phase 1 PDP [Final Report](#) are being implemented through the ongoing RPM Phase 1 Implementation [project](#), a [set of recommendations](#), including Sunrise Final Recommendation #8, are being implemented as part of the work track of the New gTLD Program: Next Round as these recommendations concern updates to the next version of the Applicant Guidebook or the Base Registry Agreement

## I. Questions and answers

**1. Do the revisions to Section 2.3.6 and the proposed draft language for the new Section 2.3.7, updated in accordance with Sunrise Recommendation #8, align with the recommendation and clearly outline the applicable requirements? If applicable, please explain your answer.**

No

***If no, please explain***

Item (B) of Section 2.3.7 seems to have an overly large number of days that the Trademark Record has to remain invalid to lead to the deletion of the Sunrise Registration.

Trying to find the reason why such a long time needs to go by before the domain go back to the availability pool, 60 (sixty) days seems to be following the pattern that one can find on the TMCH Dispute Resolution Procedures (DRP), since this is the same number of days a Trademark Agent/Holder has to file a dispute after the trademark record has been deemed invalid.

However, those are two very different situations with two different reasons behind each one - while the deadline to submit a dispute should be long enough so the interested party has time to prepare, the deletion of the Sunrise Registration would mean allowing the “normal course” of the procedure to take its place, resulting in availability.

All of this is made worse by the addition of the phrase “whichever is later”, which adds some ambiguity to the text (it seems to refer to the passing of 60 days or the conclusion of a challenge) and makes the timing necessarily longer.

Clearly, it should read “whichever is earlier,” or the phrase should be struck completely, because under the Trademark Clearinghouse [Dispute Resolution Procedures](#), the timeframe for completion of the disputes brought under 1.2 (2) and (3), the only ones that can be brought by third parties, and both of these disputes are resolved with fifteen (15) calendar days of filing (or if during the Early Bird Registration Period, within twenty (20) calendar days total time). (Note: There is no right of appeal, and thus the timeframe under 1.2(1) of 60 days would never be invoked – a Trademark Owner or Agent would never be filing anew under 1.2(1) in the Sunrise dispute process.)

Second and similarly important, the last part of 2.3.7 also does not mention what happens after the Sunrise Registration is deleted. Considering the spirit and intention of

those rules, it seems fruitful to guarantee that the resource would go back to the common pool (or, in other words, be made available to the general public again).

To provide further analysis: the goal of the Sunrise Period is to ensure that domain names are made available to those in the TMCH who seek to register them. This is not the time for Registries to reserve their own domain names (that's earlier), nor for Registries to see what Trademark Owners in the TMCH seek as their favorite marks to register in the Sunrise Period – and then to take those names away. That would be unfair to the process.

The only reason a third party would challenge a mark in the TMCH during Sunrise is if the challenger was, in turn, a registrant in the TMCH for the same term and, like the original Sunrise registrant, wants the domain name in the New gTLD: Both are entitled, both are eligible; both meet the qualifications; both filed and were registered in the TMCH – same word or words – only one has a legitimate TMCH filing and one does not. (E.g., The first Sunrise Registrant's TMCH filing was incorrectly accepted as a [Trademark Record](#) [1.2(2)] or is no longer valid based on new information, e.g., no longer a valid trademark in its country [1.2(3)]).

Why does the NCSG care? Because we are consistent and believe in fairness. The NCSG has always argued that the same words, terms, phrases, and names are used for many legitimate noncommercial and commercial purposes in the same language and across languages around the world. The rules allowing for third party challenges to the TMCH during the Sunrise Period protect that redundancy of language. The second TMCH filer, if they win the challenge during the timeframe of the Sunrise Period (which they can if artificial extensions are not added, per above concern), should now be entitled to file for the New gTLD domain name at the center of the dispute. It should not be whisked out from underneath them (whisked out of the pool) for that would undermine the first ***Sunrise Final Recommendation, #1, namely:*** “The Working Group 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 intentionally circumventing the mandatory RPMs imposed by ICANN or restricting brand owners' reasonable use of the Sunrise RPM.”

These domain names must drop back into the available pool for other Sunrise applicants and registrants.

**2. Do you have any comments or feedback on the updates made to the TMCH Requirements, specifically regarding the changes intended to account for the next expansion of the gTLD space? If applicable, please explain any concerns.**

Yes

***If no, please explain***

These proposed updates further entrench the Trademark Clearinghouse (TMCH) as a privileged layer of governance within the DNS, without sufficient consideration of their impact on domain name registrants and end users. We are surprised, for example, that ICANN Staff met only with members of the CSG and not the NCSG for input in Dublin, since the perspective of not overexpanding IP rights is not usual among legal practitioners and this is a point of view NCSG can provide. These issues, frameworks, and policies impact all of us in the Non-Contracted Party house.

Further, the TMCH is not a policy intervention that grants exceptional procedural and substantive advantages to trademark holders in a global naming system. Any expansion or consolidation of its role should therefore be assessed primarily against principles of proportionality, due process, and accessibility, rather than operational convenience for registries or rights holders.

The proposed shift away from Sunrise Dispute Resolution mechanisms toward exclusive reliance on TMCH dispute processes is particularly concerning. Automatic suspension of domain names based on TMCH records, prior to independent adjudication, reverses the normal burden of proof and weakens registrant protections. TMCH dispute mechanisms are private, opaque, and lack the procedural guarantees associated with established rights-balancing frameworks such as UDRP or national courts. Centralizing trademark validity disputes within the TMCH removes meaningful external scrutiny and increases the risk of erroneous or overbroad trademark assertions leading directly to domain takedowns.

More broadly, these updates normalize trademark exceptionalism in a system that is meant to remain globally accessible to all, speech-enabling, and neutral with respect to legal power. The TMCH structurally favors well-resourced corporate actors and jurisdictions with mature trademark systems, while exposing individual users, small organizations, and speakers in the Global South to heightened legal risk and deterrence. Before further entrenching this architecture in the next gTLD round, ICANN should conduct a **registrant-centric impact assessment of the TMCH** and reconsider whether its continued expansion is compatible with the public interest, human rights, and access to domains.

In addition, we see no provisions for the full transparency and accountability of the TMCH following use of Dispute Resolution Procedures. Clearly, and in compliance with ICANN policies, ICANN and the Community must be able to monitor and review TMCH actions – especially as the GNSO Stakeholders writing the policies and overseeing their successful implementation. Following the review called for above, we must create oversight and accountability procedures to review for misuse and overreach and ensure fair administration and proper oversight.

**3. Do you have any comments or feedback on any of the other general updates included in the TMCH Requirements? If applicable, please explain any concerns.**

Yes

***If no, please explain***

Sections 3.4.3 and 3.4.4 are not very clear. The “Note” on Section 3.4.4 is particularly confusing. It is not entirely clear the significance of the Claims Notice having an expiration date (and one as long as 12 months), and of the Registry Operators' requirement to “check that the acceptance datetime is at most 12 months in the past”.

**4. Do you have any comments or feedback on the expected impacts to gTLD registry operators on the revised Base gTLD RA?**

No

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The NCSG expresses its sincere gratitude for the chance to provide feedback and guidance on important ICANN policy matters as such. We therefore extend our thanks to the ICANN Staff for their diligent consideration of our remarks and look forward to our concerns being addressed.