

## **Review of IPReg's regulatory arrangements**

### **Call for evidence**

**15 October 2020**

**This consultation closes at 5pm on Monday 1 February 2021**

## Purpose of this Call for Evidence

This Call for Evidence asks for views on the matters that IPReg should consider in its review of its regulatory arrangements (**Review**). These are the rules, regulations and guidance that set out how individuals and firms that are regulated by IPReg must (or should) conduct themselves, their businesses and their interactions with clients and other consumers.

## Introduction

In 2019, the IPReg Board set out its strategic priorities. The Board wants to be more externally focused to ensure that its regulatory arrangements encourage and support innovation:

- a. In the provision of services that providers are able to offer consumers and the ways in which those services are provided, including the use of law tech. We want to do this by ensuring that the Review focuses on setting reasonable standards but does not ‘gold plate’ them;
- b. By encouraging the entry of new providers of education courses (at both the foundation and advanced levels) so that people who want to become trade mark attorneys and patent attorneys have a variety of routes to entry into the profession (including apprenticeships) that are provided using different delivery methods and that introduce new subjects (e.g. law tech). Our aim is that this will help to increase diversity, improve quality and lower costs;
- c. By ensuring that the requirements for continuing competence, in addition to protecting consumers, are relevant to the changing way in which legal services are provided and the commercial requirements of regulated individuals and entities.

We therefore noted with interest the Competition and Markets Authority (**CMA**) report on [Competition and Regulation \(CMA Report\)](#). In particular, the recommendation that regulation should support innovation and disruption and that it is critical that regulators “understand and take into account how regulatory measures affect new entrants and innovation”.<sup>1</sup>

## The Review

The regulatory arrangements cover the full range of activities undertaken by regulated individuals and firms – from the requirements to qualify as a patent or trade mark attorney, the process for admission to the register(s), conduct and other requirements while on the register(s), complaints and disciplinary matters and removal or retirement from the register(s).

We are reviewing the regulatory arrangements in their entirety. Unless there is evidence that a detailed, prescriptive rule is necessary (or there is a statutory requirement to include a specific matter), we intend to rely on high-level, broadly stated principles and give firms the flexibility to determine how they comply with those principles.

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<sup>1</sup> CMA Report paragraph 1.29



## How to respond

We positively welcome discussions about the future development of our regulatory arrangements. Please contact Fran Gillon (CEO) at [fran.gillon@ipreg.org.uk](mailto:fran.gillon@ipreg.org.uk) if you would like to discuss anything in more detail.

Please provide your response by 5pm on Monday 1 February 2021 by email to [info@ipreg.org.uk](mailto:info@ipreg.org.uk). If your response is confidential, please make that clear.

## Call for Evidence

### *Horizon scanning*

1. What external factors are likely to impact on the way the intellectual property legal services market(s) (both regulated and unregulated) evolve over the next 5-10 years?
2. What are the potential sources of innovative disruption (either internal or external)?
3. How should IPReg take into account increasingly flexible working patterns in deciding how to categorise attorneys and the regulatory arrangements that apply to them?

### *Law tech*

4. How is law tech likely to impact the intellectual property legal advice sector? What factors should IPReg consider when deciding its approach to law tech?

### *Small businesses*

5. What aspects of IPReg's regulation are likely to have an adverse impact on small law firms and sole traders? How can these impacts be mitigated whilst ensuring appropriate levels of consumer protection?

### *Barriers to entry*

6. The CMA Report suggests that policymakers should pro-actively identify and reduce/remove regulatory barriers to entry where possible.<sup>2</sup> What barriers to entry should IPReg reduce/remove? We are particularly interested in whether there are any aspects of the application process for firms that could be removed/reduced?
7. Where are new entrant firms likely to come from? What are the barriers to new entrant firms?
8. Are the current qualification requirements for individual attorneys the right ones? If not, how should they be changed?
9. How can additional education providers be encouraged to enter the market?

### *Reducing regulation*

10. What aspects of regulation should be reduced, removed or undertaken differently in order to reduce compliance costs?
11. We want to remove (or at the very least reduce) the current restrictions on providing non-legal services so that firms have more freedom to provide a wider range of services to their clients.

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<sup>2</sup> CMA Report paragraph 4.27

Would doing this encourage innovation and competition? What (if any) consumer protection measures would need to be in place if this happened?

12. What, if any, issues do you consider require detailed, prescriptive rules?

13. What issues do you consider should be included in a principles-based Code of Practice?

### ***Continuing competence to practise***

14. What approach should IPReg take to ensuring that attorneys on the register remain competent to practise (e.g. CPD)? In particular would you like to see a move away from a set number of hours of CPD a year and, if so, what approach would you prefer?

### ***Other matters***

15. Are there any other matters that you would like to bring to our attention or discuss with us?