



IPReg Consultation

Draft Guidance - Improving Information for Consumers and Small Businesses

Introduction

1. One of the key recommendations of the [CMA legal services market study](#) (“**CMA Report**”) was for the frontline legal regulators to take action to:

“[...] deliver a step change in standards of transparency to help consumers (i) to understand the price and service they will receive, what redress is available and the regulatory status of their provider and (ii) to compare providers. Regulators should revise their regulatory requirements to set a new minimum standard for disclosures on price and the service provided and develop and disseminate best practice guidance. Importantly, this should include a requirement for providers to publish relevant information about the prices consumers are likely to pay for legal services.”¹

2. This document sets out IPReg’s draft guidance on the type of information that we expect to be provided to individual consumers and small businesses² to help them compare legal advisers and make an informed choice about who to instruct before they choose a provider. In developing this draft guidance, we have taken into account:
 - responses to our [previous consultation](#) (see Annex A for a summary of responses to that consultation and IPReg’s consideration of them);
 - the substantial amount of research into best practice, small business needs and consumer behaviour that has been published since that consultation (see summary of key relevant findings at Annex B); and
 - discussions at the regular meetings that have been held between the frontline legal regulators and the CMA.³

IPReg’s approach

3. Given the structure of the market for IP legal advice (which is characterised by legal advice mainly to businesses rather than to consumers), IPReg considers that detailed rules would not be proportionate and that this draft guidance – which is targeted at those firms and attorneys

¹ CMA Report, paragraph 45(a)

² Small businesses are those with up to 10 employees

³ [Legal services - Remedies Programme Implementation Group Minutes](#)

that advise individuals consumers and small businesses – is an appropriate response to the CMA’s recommendations.

4. Regulated firms and individuals know their client base and we expect them to judge for themselves whether our guidance is applicable to them. However, we consider that it may be beneficial for all registrants to consider whether they provide appropriate levels of information on their public-facing communications and to use information about complaints to improve the service they provide.
5. We consider that this approach is consistent with the CMA Report’s statements that:

“It will be for individual regulators to assess their own current regulatory requirements and the relevance of our recommendations to the services that their regulated professionals offer.”⁴ and

“In concluding on the need for enhanced standards, we are clear that ‘one size does not fit all’, in respect of the disclosures that are appropriate for individual legal services or different professions. We see these requirements applying particularly for the benefit of individual consumers, we believe that such requirements would assist small businesses and particularly microbusinesses if imposed more broadly.”⁵

6. We have also taken into account the Legal Services Board’s (“LSB”) assessment that “given the profile of IPReg’s regulated community” our approach of producing voluntary guidance rather than mandatory requirements was “proportionate” (albeit that the LSB has asked us to keep our approach under review).⁶ We have also noted the fact that other legal regulators have targeted their approaches on specific areas of legal advice. For example: [CILEx Regulation Transparency Consultation](#) proposed rules for entities providing residential conveyancing and probate; the [Solicitors Regulation Authority Post Consultation Response](#) set out price information requirements for specified particular services; and the [Bar Standards Board Transparency Statement](#) targeted requirements on the more standardised services provided by barristers who can advise clients without the need to be instructed by a solicitor.
7. In developing our approach, we also took into account the non-exhaustive “regulatory baseline” for minimum disclosure requirements across all aspects of service provision in the CMA Report:⁷

Price	Service	Redress
<ul style="list-style-type: none"> • Pricing and charging model (e.g. fixed fee, hourly rates, capped charges, Conditional Fee Agreement/Damages-Based Agreement) • Hourly fees (where charged) by grade of staff 	<ul style="list-style-type: none"> • A description of the services that the legal services provider provides • Mix of staff that deliver the service • Key (and discrete) stages of services 	<ul style="list-style-type: none"> • Regulatory status, registration details • Complaints process and access to the Legal Ombudsman • Professional Indemnity Insurance cover

⁴ CMA Report paragraph 7.40

⁵ CMA Report paragraph 7.41

⁶ LSB [2017 Assessment of IPReg’s Action Plan](#) paragraph 4

⁷ CMA Report paragraph 7.37 and Table 7.1

<ul style="list-style-type: none"> • (Where offered) indicative fixed fees and factors that may affect these and the circumstances where additional fees may be charged • Typical range of costs for different stages of cases (where appropriate) • Scale of likely disbursements (e.g. searches, court fees) • Key factors that determine price (including disbursements) 	<ul style="list-style-type: none"> • Indicative timescales of completing services and factors affecting these 	
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8. The importance of good information has been reinforced in the recent '[Better Information Research](#)' jointly commissioned by the Solicitors Regulation Authority and the Legal Ombudsman. This found that when choosing a legal services provider, 85% of people want information before making their decision, usually relating to price (53%) and quality (37%), with over a quarter (27%) wanting information on regulatory protections.⁸ It also found that when people were given access to information on price and regulatory protection, they were willing to make a trade-off between the type of provider and their associated regulatory protections, and the cost of the service. The research found that 54% of participants said that they would be willing to pay more to have more regulatory protection. Regulatory protection and price were both found to be important and the research found that people do not simply choose the cheapest option.⁹

⁸ Better Information Research Figure 21

⁹ Better Information Research Item 7: Online Regulatory Protections Trial

Draft Guidance - Improving Information for Consumers and Small Businesses

Taking all this into account, we are now consulting on the following draft guidance which supplements the information requirements in IPReg's Rules of Conduct.

Who does this guidance apply to?

1. All firms are welcome to adopt this guidance, however it applies specifically to firms that advise individual consumers and small businesses (i.e. those with up to 10 employees) on IP-related matters. Firms and attorneys should analyse their client base and decide whether this guidance applies to them.

What outcomes should we try to achieve?

2. The outcomes that you should be seeking for individual consumers and small businesses are:

- Outcome: consumers and small businesses that may need IP advice make informed choices about which provider to use, based on clear and accurate pre-engagement information on providers' websites and in their client-facing communications; and
- Outcome: as their matter progresses, clients have the best possible information about changes to prices and/or services.

All the information that you provide should be sufficient, reliable and presented in ways that are relevant to consumers and small businesses.¹⁰

What information should we provide about price and service?

3. In order to improve information for consumers before they decide whether to instruct you, you should consider providing the following types of information on your website and in other promotional material that you produce:
 - Clear descriptions of the different types of services provided;
 - Typical timescales and key stages for different types of services;
 - Price of different types of services. This should be in a clear and understandable format and could include:
 - A description of the service, price, whether the price is fixed and, if so, what services are included in the fixed price and what factors might incur additional costs (and the likely price);

¹⁰ CMA Report paragraph 7.31

- If the price is not fixed, the basis for charges including hourly rates and the likely number of hours needed for different services;
 - Scenario-based pricing (where illustrative examples are given including likely cost and timescales);
 - Whether VAT is included;
 - An explanation in plain English of likely disbursements and the cost of those disbursements. Any additional “administration” fees (e.g. filing fees in the UK and elsewhere, court fees, administration charges, foreign exchange charges including any uplift on currency conversions, etc.) should also be made clear;
 - Any referral arrangements and related fees; and
 - General factors that could increase or decrease costs.
- Whether a free or fixed fee scoping meeting is available. This would provide inexperienced or first-time clients with information about cost, likely process, risks and timescales, and what services will be provided following the meeting.
 - Experience and qualifications of individuals who carry out the services together with supervisory arrangements.
4. The information you provide should avoid technical terms and legal jargon wherever possible. If this is unavoidable, the meaning of such terms should be explained in straightforward language.

What information should we provide about regulatory status and access to redress?

5. Regulatory status

- Firms and attorneys that are regulated by IPReg may use the IPReg logo on their websites and other communications. Note, however, that if you are regulated by IPReg as an individual but your firm is not regulated by IPReg, you may not use the IPReg logo on your website. IPReg will take action against any mis-use of its logo; and
 - You should explain that there are required standards of training (e.g. before admission to the register and CPD) and conduct. You may also want to set out any additional training requirements that your firm has.
6. You should explain the protection that your professional indemnity insurance provides. You should also explain that IPReg has put in place an insurance policy that may provide additional protection in the event of dishonesty or fraudulent use of client money.

7. The Legal Ombudsman can provide redress for individuals or micro enterprises¹¹ and you should therefore explain how to make a complaint, how to contact the Legal Ombudsman and what the Legal Ombudsman can investigate. (See also IPReg Code of Conduct 'Rule 12 – Complaints Handling' and its accompanying Guidance.)

Does this guidance also apply to client care letters?

8. A key aim of improving information for consumers and small businesses is to enable them to make informed decisions before they enter into a contract with an IP attorney or firm. However, it is also important that consumers receive clear information once they have decided to instruct you.
9. You should therefore also consider whether you need to amend your client care letters to include some or all of the information on price, service, regulatory status and redress set out above. You should also consider whether to make standard information that is included in your client care letters available on your website as part of increasing overall transparency. If you decide to do so, you should take into account the CMA's observation that a more useful requirement than simply publishing a standard client care letter would be to:

“translate the letter into accessible client facing disclosures embedded appropriately into the content of a provider's website.”¹²
10. In any event, you should consider the findings of research which identified eight key principles for client care letters as well as more recent consumer research which found the three most important things to legal services users to be - regular communication about progress, clear information about costs, information about the legal process.¹³

¹¹ Defined in European Commission Recommendation 2003/361/EC – broadly a business or enterprise with fewer than 10 employees and turnover or assets not exceeding €2 million.

¹² CMA Report paragraph 7.119

¹³ Better Information Research Box 4

Other matters/ Future plans

First-Tier Complaints: firms should analyse carefully their own complaints data to ensure they are identifying root causes of complaints and that there is a proper feedback process within the firm at senior level to improve standards of service.

Digital badge: IPReg will explore providing a “digital badge” in its new Customer Relationship Management system. This would provide a secure way for consumers to check that a firm is actually regulated by IPReg by clicking on a coded, digital ‘badge’ on the firm’s website. It has been introduced recently by the Council for Licensed Conveyancers and the Solicitors Regulation Authority.

Legal Choices and Single Digital Register: the CMA Report identified the potential for the [Legal Choices website](#) to be redeveloped and promoted as a starting point for consumers on how to find information about legal services. The legal regulators have commissioned consumer research into what is needed and are working collaboratively to redevelop the website. Some work has also been conducted into the feasibility of a single digital register.

Third party reviews: we will consider whether to issue guidance on engaging with feedback platforms such as Feefo and Trustpilot.

Disciplinary findings: our new Customer Relationship Management system should enable us to include on our public-facing registers information about disciplinary action that we have taken against individuals and firms. We consider that this will be more accessible than our current approach of a separate [Disciplinary Findings](#) section on our website. It will also enable us to comply with the LSB’s requirements that our register is “*accessible, accurate and provides information on the disciplinary records of those regulated*”.¹⁴

Consultation Questions

1. What are your views on the proposed outcomes at paragraph 2 of the draft Guidance?
2. What are your views on the proposed price and services information at paragraphs 3 and 4 of the draft Guidance?
3. What are your views on the information about regulatory status and redress at paragraphs 5 to 7 of the draft Guidance?
4. Do you have any comments on any other aspects of this document?

Please provide responses by 5pm Friday 15 February to: info@ipreg.org.uk

If some or all of your response is confidential, please make this clear.

¹⁴ [LSB Regulatory Performance Standards](#) paragraph 2.2: Outcome A5

Annex A – Consideration of Responses to previous consultation¹⁵

Responses were received from CIPA, CITMA, the Legal Services Consumer Panel and the Legal Ombudsman (a generic response to all regulators).

Summary of Responses

<p>Question 1. What are your views on IPReg’s proposed approach, in particular our proposals that: a) Any changes would be incorporated in Guidance rather than in Rules/Regulations; and b) The focus of any changes to our Guidance should be on those attorneys that provide services primarily to individual consumers and small businesses. Should IPReg develop criteria to determine which attorneys might be covered by such Guidance?</p>			
<p><i>Headline summary of IPReg proposals: strong expectation of any regulatory changes to be incorporated in Guidance rather than in Rules/Regulations, with the individual attorney/firm to consider whether it is applicable to them, given their detailed knowledge of the types of clients they advise.</i></p>			
<p><u>CIPA response:</u> agrees guidance approach is proportionate and pragmatic. All regulated persons and entities providing services to consumers and small businesses should be encouraged to consider the guidance and put in place appropriate systems and processes.</p>	<p><u>CITMA response:</u> comfortable with the proposal to issue guidance rather than prescriptive rules/regulations.</p> <p>Do not agree that criteria should be developed, considers it would be more appropriate to encourage all regulated individuals and entities to read the guidance and take the action they determine to be appropriate.</p>	<p><u>Legal Ombudsman response:</u>¹⁶ supports the avoidance of burdensome measures but believes it is appropriate to allow for flexibility wherever possible.</p>	<p><u>Legal Services Consumer Panel response:</u> disappointed that IPReg is proposing to rely on guidance given it has little legal or regulatory weight in comparison to mandatory rules. It considers that such an approach is misaligned with the spirit of the CMA’s recommendation which called on regulators to “require providers to publish information on price, services, redress and regulatory status”.</p> <p>Whilst accepting the CMA recommendations were focused on individual consumers (and small businesses), the LSCP believes, for consistency, that IPReg should ensure its requirements apply across the board.</p>
<p><i>IPReg response: guidance remains a proportionate response to the CMA’s recommendations given the nature of the IP advice market(s). All firms are welcome to adopt the guidance, however, it applies specifically to firms that advise individual consumers and small businesses (businesses with up to 10 employees) on IP-related matters. Firms and attorneys should analyse their client base and decide whether this guidance applies to them. Both the CMA and the LSB recognise that IP attorneys serve primarily business consumers. We have also taken into account the LSB’s assessment that “given the</i></p>			

¹⁵ The consultation ran from 9 October 2017 – 9 January 2018.

¹⁶ In each instance where the Legal Ombudsman response is cited, this relates to its broad response to the consultations of the legal regulators as a whole, not solely to the IPReg consultation.

profile of IPReg’s regulated community” our approach of producing voluntary guidance rather than mandatory requirements was “proportionate” (albeit that the LSB has asked us to keep our approach under review).

Question 2. What are your views on providing this type of information on attorneys’ websites? What other types of information could be provided?

Headline summary of IPReg proposals: the consultation provided explicit examples of pricing information options which could be included on attorney websites: “fixed prices for specific categories of work, the factors that may affect fixed fees and the circumstances in which additional fees may be charged; scale of disbursements (e.g. filing fees in the UK and elsewhere, court fees, administration charges, foreign exchange charges, etc.); hourly rates for specific categories of fee earner; scenario-based pricing, where illustrative examples are given including likely cost and time-scales”; the availability or otherwise of a free or fixed-fee initial scoping meeting – to include indications of cost, likely process, risks and timescales - particularly for inexperienced or first-time users of IP legal services; typical stages and timelines for particular types of work.

CIPA response: agrees the type of information listed by IPReg could be provided on attorneys’ websites and that IPReg guidance should ensure there is a uniform approach to the publication of such information by regulated persons and entities. No additional information identified for publication.

CITMA response: many firms will already provide this type of information, setting out ‘best practice’ in the guidance will help to encourage standardisation and transparency.

Is explicit in stating that it does not consider there are any other types of information which it would be beneficial to publish.

Legal Ombudsman response: should encourage provision of more up-front information about costs including how they are calculated (20% of complaints to Legal Ombudsman relate to this); context and dependencies are important, particularly how costs change over time; should provide hourly rates/ different staff rates, likely disbursements and typical cost ranges and fixed costs should explain what is and is not included. Regulators should supply prescriptive templates for price publication, ideally similar across regulators.

Legal Services Consumer Panel response: welcomes IPReg’s consideration of how to provide consumers with pricing information. Information needs to be simple and accessible at the time of need but determining what is simple and accessible is not always easy and will require testing and evaluation. It is disappointed that IPReg makes no reference to these. Suggests if resource is a hindrance, regulators could pool resources for this research and would introduce some standardisation in approach.

IPReg response: our basic approach is unchanged but we have also included referral arrangements and fees; and specification of additional “administration” fees (e.g. filing fees in the UK and elsewhere, court fees, administration charges, foreign exchange charges including any uplift on currency conversions etc.).

We have undertaken a review of consumer research (see Annex B) and do not consider additional testing and evaluation, as suggested by the Consumer Panel, to be necessary, given the volume of relevant research that now exists.

Question 3. What are your views on the provision of this type of pre-engagement information on attorneys’ websites?

Question 4. Is there any other information that should be provided?

Headline summary of IPReg proposals: suggested the following information could be provided on attorneys' websites so available to inform choice: complaints handling procedures, the right of consumers to complain to the Legal Ombudsman, that the attorney/firm has Professional Indemnity Insurance, they are regulated by IPReg and generic information already provided in client care letters, and the reasons for why each is an important protection for consumers. It is a requirement of the IPReg Code of Conduct that all this information is provided, the difference here is when i.e. pre-engagement.

CIPA response: considers it is reasonable to ask attorneys to publish the proposed pre-engagement information on websites. Suggests the guidance should provide a general overview rather than be overly prescriptive about the nature or form of the information. Does not suggest any other information to be published.

CITMA response: would support the publication of this pre-engagement information on attorneys' websites, though guidance should not be too prescriptive about what should be published or the basis on which it should be published. No other information to be published.

Legal Ombudsman response: to put costs into context, descriptions of service, staff, stages of matters and timescales, should be encouraged. Considers there is less scope for consumer confusion or individual differences in interpretation meaning no template should be mandated.

Believes that the choice to publish further information should be left to firms themselves.

Legal Services Consumer Panel response: supports transparency around consumers' rights to redress and compensation, as well as the regulatory status of providers. Queries whether IPReg would mandate this, whether by template or allowing flexibility on how the information should be presented. Suggests IPReg explores what would work for consumers and if necessary draws lessons from other sectors.

The Panel says that it is unclear as to whether IPReg proposes to take regulatory action requiring firms to publish a description of the services they provide (including details on the different staff who deliver services, a timeline showing when key stages of the work will be completed, and any factors that could affect these requirements) as per CMA recommendation. It considers there should be a requirement for the publication of service information, particularly timescales, as price information by itself is not enough.

IPReg response: our basic approach is unchanged but we have included additional information relating to clear descriptions of the different types of service offered, the typical timescales and key stages, experience and qualifications of individuals who carry out the services and supervisory arrangements.

This change was informed by the Consumer Panel response, our review of the approaches of other legal regulators and revisiting the CMA Report. Also identified through this review, the Guidance now suggests the information is available in alternative formats, not solely on the website, and refers to the IPReg compensation arrangements.

Question 5. What are your views on providing information about complaints on attorneys' websites? What other type of information about quality could be provided?

Headline summary of IPReg proposals: the IPReg Annual Report includes aggregated information about first-tier complaints (those made directly to an attorney or firm, as provided in the Annual Returns of firms). Rather than pursuing the publication of complaints data by firms, IPReg proposed to focus on working with the other regulators on the feasibility of developing a single digital register and supporting firms in engaging with review platforms.

CIPA response: considers publication of complaints information is not a proven indicator of quality. Instead, attorneys should be encouraged to signpost clients to relevant sources of complaints data information such as that published by the Legal Ombudsman and IPReg.

CITMA response: agree it would not be suitable for firms to publish complaints information as this would not necessarily prove to be a reliable indicator of quality. Agree that a recommendation in guidance to provide hyperlink to other relevant sources of complaints data and decisions, such as to IPReg/Legal Ombudsman, could be a simple and effective mechanism for consumers who wish to look at this level of information.

Legal Ombudsman response: supports the publication of how-to-complain information.

Publication of first-tier complaints data needs definition of a complaint and reporting as to when it is settled. Suggests the following context be provided: size of firm (turnover), number of transactions p/a, number of first tier complaints p/a, complaint types (e.g. if about cost), link to Legal Ombudsman data on ombudsman decisions. Suggests reporting of a maximum of one complaint per client per matter to avoid distortion due to repeat/ vexatious complaints.

Considers there is limited value to publishing first tier data for IPReg (and CILEx Regulation and the Master of the Faculties). For this data to be a sufficiently reliable indicator of quality, there would need to be greater numbers of complaints to provide some

Legal Services Consumer Panel response: disagrees with the proposal. Considers the publication of the volume and nature of first-tier complaints data has the potential to improve market transparency, to aid consumers in making informed decisions, provide commentators or intermediaries with more complex information which they are better placed to repackage in simplified form for consumers. It also considers it has been well argued that the availability of complaints data acts as a deterrent against poor practice, help to identify areas of high risk, and can guide decisions around prioritisation for approved regulators. It considers that IPReg can do more with the information it collates (in the non-consumer facing Annual Report) and would like it to consult on whether it should publish this information at firm level.

		<p>comparison level between firms. Since consumers are unlikely to be able to use this information to inform their choices, no reason is found to encourage its publication.</p>	
<p><i>IPReg response: we remain of the view that complaints are not necessarily a reliable indicator of quality, especially in the absence of context and/or work that is not commoditised. We do not, therefore, consider that it would be useful to consumers to require publication of this information. The IPReg 2017 Annual Report provided a breakdown of the (first-tier) complaints recorded by IPReg registrants and found that the four most frequent complaint areas support the CMA’s recommendations for increased transparency of costs and service prior to instructing an attorney:</i></p> <ul style="list-style-type: none"> • <i>Costs information deficient/costs excessive (82 complaints)</i> • <i>Failure to advise or poor/wrong advice (28 complaints)</i> • <i>Failure to keep informed/failure to reply (21 complaints)</i> • <i>Delay/failure to progress (19 complaints).</i> <p><i>Paragraph 20 of the CMA Report stated that “there is a role for regulators in aggregating and making available quality information such as complaints data. Making more information available would increase the ability of consumers to compare providers and may also stimulate the growth of [Digital Comparison Tools] and other third-party intermediaries for legal services”.</i></p> <p><i>We will continue to publish aggregated data on an annual basis</i></p>			
<p>Question 6. Would providing disciplinary information on the Register(s) be useful?</p>			
<p><i>Headline summary of IPReg proposals: the consultation reflected the LSB’s suggestion that IPReg should integrate the disciplinary information it already publishes into the Register(s) on its website. The LSB considers that this can be achieved “at little cost”.</i></p>			
<p><u>CIPA response:</u> urges IPReg to consider carefully the criteria attached to the publication of this information as it could have a disproportionately adverse impact upon regulated persons or entities in a small regulated community. Should the LSB suggestion be implemented, CIPA would want the opportunity to comment on any details.</p>	<p><u>CITMA response:</u> suggests careful consideration be given to criteria for how and what information is actually published, urging IPReg to look at this in more detail and perhaps consult further on any proposed plans in order that important factors can be considered. Provides examples for consideration: would information clearly distinguish whether a complaint was upheld or dismissed? Would information only be displayed for a certain period of time?</p>	<p><u>Legal Ombudsman response:</u> no explicit response made.</p>	<p><u>Legal Services Consumer Panel response:</u> strong view that disciplinary information should be provided on the digital register, otherwise information is scattered and difficult for the consumer to access.</p>

IPReg response: having considered the Consumer Panel response and taken into account the new LSB regulatory performance assessment regulatory outcome that “The regulator’s list of those they regulate is accessible, accurate and provides information on the disciplinary records of those regulated” our new Customer Relationship Management system should enable us to include on our public-facing registers information about disciplinary action that we have taken against individuals and firms.

Question 7. What are your views on IPReg’s proposed approach to quality marks and regulatory badges?

Headline summary of IPReg proposals: the CMA report discusses the use of a quality mark or “regulatory badge” as an aid to inform choice and help distinguish from unregulated providers. IPReg’s view is that a quality mark provision is best addressed through re-development of the Legal Choices website and/or establishment of a single digital register, if taken forward.

<p>CIPA response: advises it agrees with the approach, whilst also saying that IPReg can do more to help prospective clients to distinguish between regulated and unregulated; urges IPReg to liaise with external partners such as CIPA and the UK Intellectual Property Office in any awareness-raising programme.</p>	<p>CITMA response: supports the proposed approach to quality marks and regulatory badges which is proposed, providing there is suitable education of consumers to recognise a badge of quality or regulation.</p>	<p>Legal Ombudsman response: broadly in favour of regulators developing digital badges or logos to provide clear indication that firms are regulated, but not for other purposes; considers further research is needed on effectiveness of providing more information through these badges.</p>	<p>Legal Services Consumer Panel response: does not understand the reasoning provided. Considers there is very little in this consultation around developing or publishing quality proxies. Emphasises that both the CMA and the Panel have highlighted the need for quality information to sit alongside pricing information.</p>
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IPReg response: having reviewed the approaches of other legal regulators, the development of the new Customer Relationship Management system will explore provision of a “digital badge” to take the form of a secure coded digital IPReg logo so that consumers can easily check whether a firm is regulated by IPReg.

Question 8. Do you have any comments on the approach taken by IPReg on the Legal Choices website, a single digital register or independent feedback platforms?

Headline summary of IPReg proposals: IPReg is participating in the regulators’ groups, both led by the SRA, considering how to improve the Legal Choices website and development of a single digital register. In addition, IPReg will consider what advice should be given to attorneys about engaging with independent feedback platforms (i.e. a website such as Trustpilot or Feefo) should the market developed such.

<p>CIPA response: believes the suggested approach is appropriate. Is of the view that the digital register should not add to regulatory arrangements and that patent attorneys should not be disadvantaged through the application of criteria designed for the other regulated legal services professions.</p>	<p>CITMA response: supports the approach taken by IPReg.</p>	<p>Legal Ombudsman response: very supportive of Legal Choices; is already participating on Steering Group, believes that refreshing the Legal Choices website would be hugely beneficial for consumers to improve it as a hub for legal information to increase public understanding and</p>	<p>Legal Services Consumer Panel response: supports the approach adopted by IPReg with regards to the Legal Choices website.</p>
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		<p>help consumers navigate legal services.</p> <p>Wishes to be involved in taking forward the single digital register and contributing own data. Optimistic about the value that comparison websites could add to the legal services market, provided that the information they supply is complete and balanced.</p>	
<p><i>IPReg response: IPReg remains committed to the redevelopment of the <u>Legal Choices website</u> and is working collaboratively to redevelop it. It also remains committed to working collaboratively to determine the feasibility of a single digital register. We will consider in due course whether to issue guidance on engaging with feedback platforms.</i></p>			
<p>Question 9. What is your view of the impact that the above proposals will have on the competitiveness of regulated IP companies and individuals?</p>			
<p><u>CIPA response:</u> business to business nature of the work of its members means it cannot predict what, if any level, of increase in the competitiveness would result from these proposals. Its primary concern is that IPReg does not introduce any additional regulatory burdens.</p>	<p><u>CITMA response:</u> IPReg must ensure that any proposals do not result in any unnecessary additional burdens being imposed on regulated IP companies and individuals.</p>	<p><u>Legal Ombudsman response:</u> no explicit response made.</p>	<p><u>Legal Services Consumer Panel response:</u> no explicit response made.</p>
<p><i>IPReg response: We consider that, if implemented well, firms that provide consumers and small businesses with good quality, relevant and understandable information about price, quality, service and other matters can gain a competitive advantage over firms that do not. We will monitor how our new guidance is implemented and will consider further how to monitor the effectiveness of any measures that attorneys and firms introduce. We anticipate that we will re-visit this issue in 2020 or 2021.</i></p>			

Annex B - Consumer Research

1. Since the previous consultation, there has been a significant amount of research, both consumer and legal business, conducted and there have been transparency regulatory developments in the sector. Whilst not necessarily IP-specific we consider the results provide helpful information about consumer behaviour and may help registrants in developing their consumer/client-facing information.
2. Key research findings that we consider relevant (particularly in relation to small business consumers/clients) are:

[UK Competition Network \(Financial Conduct Authority and Competition Markets Authority\) - Consumer Remedies Project: lessons learned report](#) October 2018

The 'three As': a well-functioning market typically relies on consumers being able to follow the 'three As':

- **access** information; for example, on the prices and quality of alternative products;
- **assess** this information; for example, by comparing rival offers and making an informed choice between them; and
- **act** on the information; for example, by being able to switch supplier easily or to move to a better product from an existing supplier.

[Solicitors Regulation Authority - a study of small businesses with legal issues](#) October 2018

Overall Suggestion: findings suggest that publishing prices may help firms to win more business, both from competitors and from new clients who do not currently access professional support due to incorrect assumptions, such as how much it might cost.

Main barriers: when they have a legal need, small businesses say that a lack of readily available price information, and the complexity of the information currently available, are the main barriers to finding a new solicitor

Cost: > 60% of small businesses (70% of sole traders) perceived cost as a barrier that might limit access to legal services; small businesses without access to pricing information assumed solicitors were more expensive (by c22%) [than what? Also, is it that 22% assumed they are more expensive or that x% assumed they would cost 22% more].

Internet searching: 42% of small businesses already spend time searching the internet when looking for legal service providers; 75% would spend more time doing so if more accessible information was available online.

Winning business: found evidence that by increasing price transparency, solicitors would win more business from alternative providers and professions that do not publish their prices.

[Solicitors Regulation Authority - Better Information Research](#) June 2018

Research commissioned jointly with the Legal Ombudsman: found the three most important things to users of legal services to be - regular communication about progress, clear information about costs, information about the legal process.

Information to inform choice: research found that when choosing a legal services provider, 85% of people want information before making their decision, usually relating to price (53%) and quality (37%), with over a quarter (27%) wanting information on regulatory protections.

Price, quality, protection: in general, people stated that they wanted more information on price, the quality of the service, and the provider's regulatory protections.

Informed decisions: when people were given access to information on price and protections, people were willing to trade off between the type of provider, and their associated regulatory protections, and the cost of the service; 54% of participants said that they would be willing to pay more to have more regulatory protections; protections and price are both found to be important, and people do not simply choose the cheapest option.

[Legal Services Board - Small Business Legal Needs Research 2013-17](#) Feb 2018, followed by [Small Business Legal Needs Research 2013-17, New Analysis](#) August 2018

Analysis indicates that transparency of prices could result in substantial increase in small business clients

“Our analysis shows that there is a strong relationship between perceptions of price transparency and likelihood of seeking legal advice – which supports the Competition and Markets Authority's recommendations on transparency”.

“The findings of this research highlight the continued perception of legal services as expensive, whether or not that perception is accurate. Work by regulators and others to implement the CMA recommendations should help to address this over time. There are opportunities for legal service providers to expand their business if they can tailor their services to what this group of consumers need and overcome perceptions of high costs.”