

IPReg: 2019 Business Plan, Budget and Practice Fees consultation

The Chartered Institute of Trade Mark Attorneys (CITMA) is responding to the consultation by IPReg on their 2019 Business Plan, Budget and Practice Fees in its capacity as an Approved Regulator, as defined in the Legal Services Act 2007 (the Act) and as the representative body for Registered Trade Mark Attorneys and the wider trade mark and design profession. We are grateful to IPReg for the opportunity to comment.

Draft Business Plan

We broadly support the draft business plan put forward by IPReg.

IT/Website project

Following conversations since the consultation was launched it is clear that IPReg need to make important changes to their IT infrastructure. With new systems in place there should be efficiency gains to be made both in terms of resource and through improved services for registrants / consumers.

Whilst the draft business plan sets out some areas where significant resource time currently occurs, there is little information provided to indicate the expected efficiency savings to be made through the new systems. This information would further justify and support the proposed investment.

Despite this, it is evident that continuing with existing IT systems, applying various short-term fixes, is not a sensible option to take and a new system, which can be future-proofed, will be a justified financial investment to make. Further comments in relation to the costs are highlighted in our response to the proposed 2019 expenditure budget.

Review of core functions

In our response to the 2018 business plan we suggested IPReg review how it delivers its core activities and delegated responsibilities, reviewing its processes, rules and regulations, consulting as is appropriate. We therefore welcome the proposal in the 2019 business plan to continue to review the rules and regulations which underpin the work of IPReg. We have already seen in 2018 some welcomed changes which should result in a more robust, but proportionate, delivery of the regulatory responsibilities delegated to IPReg. We look forward to working with IPReg throughout the programme of work, assisting with developing the scope of the review, as well as responding formally to official consultations.

Accommodation

We fully support the piece of work to consider accommodation options. As the lease for Outer Temple expires in February 2020 it is prudent to consider all the options available well in advance of this date. As CITMA will also be carrying out this piece of work we would encourage IPReg to work closely with CITMA to ensure that any decision taken is in the best interests of both organisations.

General

We are grateful that the draft business plan included some information about the timing of activities over the planned year. We are still of the view that key deliverables against objectives and activities outlined in the plan, as well as performance metrics, would further help to ensure IPReg is seen to be providing robust and cost effective regulation. This

should form a key element of the 2019 business plan and would be beneficial to both those regulated by IPReg and to CITMA (and CIPA) in fulfilling its responsibilities as an Approved Regulator.

We note in the introduction of the consultation the increase in complaints in 2018 and the need to train those conducting the disciplinary process. The volume of complaints is still relatively low and we would encourage IPReg to include, as part of its review of core activities, whether the current arrangement for handling disciplinary cases is the most efficient and effective mechanism. An alternative option could be to use the expertise and resource of other regulators skilled in the handling of complaints and disciplinary matters.

We are pleased to see that a ring-fenced reserve is being kept to fund suitable diversity initiatives. We hope that IPReg will continue to support IP Inclusive which has been developed as a vehicle for delivering awareness and change across the IP landscape. IP Inclusive considers various activities/projects it might carry out to deliver against its objectives, but these activities/projects only commence when sufficient financial support is received, therefore continued support from IPReg is important and would, in our view, be fully justified.

Draft Budget

We note a significant increase in budgeted operational costs compared to the 2018 budget, an increase of £97,300. In our response to the 2018 draft budget we raised concerns about the proposed increase in operational costs (+£58,400 from 2017), although appreciating the staffing restructure taking place. We had hoped that this restructure would bring about efficiency savings and reduce costs elsewhere and we encouraged IPReg to carry out a review of staffing and operational costs during the course of 2018.

We set out a desire for IPReg to decrease their operational budget in 2019, ensuring the cost of regulation is proportionate to the core and necessary regulatory activities delegated to IPReg. It is therefore somewhat surprising to see the proposed increases in operational costs for 2019 and a two year increase (2018 + 2019) of over £150,000.

It is not entirely clear from the draft budget and draft business plan why certain increases, particularly in respect of staff costs, which are projected to rise by 16%, are required at the level proposed. We would welcome more transparency and reasoning for these costs. For example, we are aware that the newly recruited Chair is contracted to work more hours than the previous role required and therefore there is an appropriate cost increase. Is this the case for the staff costs, or is IPReg proposing to recruit additional staff permanently/temporarily? Are these purely salary increases? If it is a salary increase we would question whether increases at the proposed levels are fully justified.

A breakdown of the staffing structure and costs would be useful to see, along with the changes from 2018. If the staffing cost increase is largely to cover the IT/Website project, it would be useful to understand exactly what these costs are for, what activities they will cover and when these costs will be removed, along with any other expected reductions as a result of more efficient and effective systems.

Whilst it may not be prudent to include in a public consultation all the calculations and options profiling the income and expenditure, more detail would be useful to help fully scrutinise the figures presented and understand why significant increases in operational expenditure are predicted. It would also be useful to understand what plans IPReg have for

future years to end such increases in operational expenditure? The rate of increase in operational expenditure is clearly not sustainable year on year.

In respect of the change in reserves to fund the IT/website project we would hope that IPReg could deliver systems well within this amount and assume it includes a healthy contingency.

We note that the 'Education & Projects' line has increased from £0 to £5,000 but in the draft business plan there doesn't appear to be any explanation as to what this covers. Is this to cover the costs of independent external expertise mentioned on page 9, paragraph 15?

Practice Fees

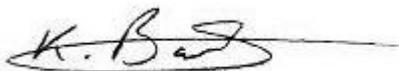
Although we have raised some concerns at the proposed expenditure budget, in light of the activities set out in the business plan and as part of good financial governance, on balance we would support an increase in practice fees for 2019. For the reasons outlined previously, we do not think it is appropriate or justified for any increase in practice fees beyond RPI and we would strongly urge IPReg not to make such an increase. At a time of significant uncertainty for the profession, particularly as a result of Brexit, we would suggest a reasonable increase, no more than RPI, would be acceptable.

We would expect the reserves which IPReg have built up to cover any short fall if it is needed, however we also feel that it should be possible for IPReg to reduce costs in some areas and therefore additional funding from reserves could be avoided.

In our response to the 2018 consultation we made clear that we hoped for a reduction in practice fees, all things being equal, in future years. We would hope an outcome from the IT/Website project and the review of core activities will be a new and appropriate fee structure which will result in a reduction in the practice fees to align with a reduction in operational costs.

We would be happy to discuss any of these points further with representatives from IPReg if it would be of assistance.

For and on behalf of the Chartered Institute of Trade Mark Attorneys



Keven Bader
Chief Executive

7th September 2018