

The Patent Regulation Board and the Trade Mark Regulation Board

Application for Approval of Practice Fees for 2014

Summary - Level of Practice Fees for 2014

This application is in two parts; namely:

- **application for approval to maintain the practice fees** for individual registrants as at the 2011 level (and thus the 2012 and the 2013 levels); and
- **notification to the LSB that** the temporary increase in practice fees payable by firms which was imposed in 2012 and retained in 2013 (namely a 50% increase) will cease. Practice fees payable by firms are to revert to the fees levied in 2011 (for which approval is sought).

In summary, therefore, IPReg is seeking approval of practice fees for 2014 at the levels approved by the LSB for 2011.

1. Developing the application/Setting the Budget

- The 2013 fees matrix as submitted to the LSB for approval at the end of 2012 is again attached (**Annex 1**) with the proposed 2014 figures in **green**.
- The method of calculation is also unchanged.
- In its 2011 consultation regarding the temporary increase in the fees payable by firms, IPReg made clear that the increase would apply only for 2012 and 2013. This temporary uplift was to fund the licensing application and associated work.
- In its 2013 budget IPReg provided for £50,000 to meet the cost of relocating and restructuring during 2013 in anticipation of its new licensing role. To this £50,000 a further £50,000 ring-fenced from the 2012 operating surplus was added. This contingency of £100,000 is unspent. Relocation has not proved necessary and IPReg has expanded within Outer Temple. The IPReg Board has determined that these funds will, instead, be utilized to meet the cost of the implementation of the compensation arrangements and the first year's insurance premium (c£50,000) and also the set-up of costs charged by the First Tier Tribunal (£40,000).
- By way of background, a copy of the 2013 Budget v Expenditure spreadsheet as at end September 2013 (**Annex 2**) and the Balance Sheet at the same date (**Annex 3**) are both attached.

- Whilst it is not possible to predict the actual amount of the unused reserves and the general operating surplus at the end of 2013, IPReg is confident that it is of an order to support comfortably what is, ostensibly, a deficit budget and to make additional provision of a minimum of £25,000 to the General Contingency Reserve.
- In 2014 IPReg will consult specifically on a possible move to practice fees for firms based on turnover (this having already been part of the general consultation on the approach to licensing). Going forward IPReg does not consider that numbers of regulated persons is necessarily a good proxy for size.
- In May the IPReg Governance Committee undertook a first review of the IPReg Business Plan for 2014 and the consequential budget. The Committee met again in June to consider the revisions. At the 4th July IPReg Board meeting the 2014 Business Plan and Budget, as developed and recommended by the Governance Committee, were approved by the full board subject to consultation.
- The most significant change to the structure of the budget is the increase in staff (increasing officer level resource from 2 officers each three days per week to 4 officers on a similar arrangement). There have been extensive discussions about resourcing with the Institutes (as ARs) within the AR Forum in the conjunction with the development of the licensing application. "Resource" (and possible relocation) appears as a separate item within our 2013 Business Plan. Full details are also contained in the IPReg Licensing Application which has been posted on the IPReg website since May.
- One of the two additional members of staff has already started.
- The draft plan and budget were posted with the Consultation section of the IPReg website. E mails were sent on 29th July to the CEOs of both CIPA and ITMA directing them to the "Consultations" section and 24 hours later a similar e mail was sent to all registrants.
- IPReg received 4 responses. One from a member of CIPA Council but (in his personal capacity) and two were from colleagues at his firm. These three emails objected to the additional staffing plans The last response was from the CEO of CIPA and (on enquiry) described by the President thus *"Lee's email to Ann was as a result of soundings in the profession and some discussion at Council"*
- The correspondence called for a redrawing of the budget to split costs between CIPA and ITMA. This may require a separate discussion but does not impact on this application for approval.
- IPReg reviewed all these comments at its Board meeting 3rd October and determined that no adjustment was necessary to either the Business Plan or the Budget.
- The 2014 Business Plan is annexed (**Annex 4**).

- The 2014 Budget is annexed (**Annex 5**). This spreadsheet shows the “first cut” of the budget based simply on projected income of £580,000 for 2014.
- After stripping out the “ABS Levy,” total income in 2012 was £588,000. Development of the 2014 Budget takes place significantly before actual income for 2013 is known. Again after stripping out the “ABS Levy” actual income for 2013 to date is £607,000. Consequently, whilst the 2014 Budget shows a small deficit of c£11,000 against a conservative projected income figure of £580,000, given actual income in 2013 of £607,000 and for the reasons explained above, in respect of reserves, this is not regarded as an issue.
- The projected income figure for income figure for 2013 can be verified by reference to the IPReg audited accounts (see below)
- In January 2013 we posted a “plus reserves” version of the 2013 Budget on the website (**Annex 6**) and a 2014 version will be posted at the start of 2014.
- In relation to contingencies :
 - Each year IPReg provides for a small operational contingency. This has not been called on in the 4 years of operation to date.
 - IPReg has provided for the cost of major projects over two budgets. Provision for a new website was made over 2011/2012 and, in fact this remains underspent and approximately £10,000 will be carried forward to meet the cost of IT support during the first year of practice fees being paid on line.
 - The cost of the two additional staff has been met within current income as a result of savings elsewhere, such as the cost of administering the registers (now to be on line) and the LSB set up levy (now paid).
 - In 2010 IPReg determined that over a period of four years it would build a general contingency of £100,000 against wind up and significant unexpected costs. IPReg currently has £75,000 invested. This will rise to £100,000 at the end of 2013 (£25,000 again taken from operating surplus). However, in view of the slightly increased accommodation costs (from £25,000 to £45,000) and the employment of additional staff, the Governance Committee intends to review the level of reserve at its March 2014 meeting.
- IPReg is commencing to charge £100 for the issue of certificates to Higher Court Litigators and Higher Court Advocate as permitted by the Right to Conduct Litigation and Rights of Audience and Other Reserved Legal Activities Certification Rules 2012. This is a one off charge to cover administrative costs which IPReg consider should not be borne as a central cost. CIPA and ITMA were consulted through their Chief Executives. To put this in context IPReg charges £200 for approval of a non-attorney manager.

2. Permitted Purposes - Allocation of Income

In 2013 all income has been applied and in 2014 all income will be applied solely for the permitted purposes. The budgets/comparisons, which are provided evidence that the expenditure principally comprises:

- the levy to the LSB and for LeO.
- the salaries of the now four (to be five) part time members of staff and the cost of a project consultant employed to undertake work in relation to the LETR exercise.
- the remuneration and expenses of the Chairman and Board members.
- accommodation and other office costs.
- provision for education and research projects. The research into unregulated IP service providers is being carried forward to 2014. There is evidence produced by the IPO that this is a significant issue. IPReg has put links from the consumer section on its website "Got an Idea" to the IPO warning on its website regarding unsolicited "misleading" correspondence offering to renew registrations.

One lay board member will retire in March 2014 and two in March 2015. There is a provision of £28,500 to meet this recruitment - £15,000 and £5,000 respectively in the 2013 and 2014 Budgets plus £8,500 brought forward as a reserve.

The 2014 budget again contains a very modest allocation for IPReg "events". This consists of presentations, principally by the Chairman, to registrants about IPReg.

IPReg is monitoring closely the 2013 budget provision for disciplinary hearings as there is evidence of some increase in the number of complaints.

The 2013 budget (£552,800), the 2013 expenditure as at September and the proposed 2014 budget (£591,700) in pie chart form are attached (**Annex 7, 8 & 9**).

3. Regulatory Functions

Administration of the data for the Registers - Shared Services

In 2014 IPReg will cease to use the services of CIPA and ITMA for administration of its individual registers.

Sources of Income

All income is derived from the practice fees charged by IPReg to registered attorneys and entities. Since January 2010 IPReg has received no financial assistance from CIPA and ITMA. IPReg is financially independent.

4. Clarity and Transparency

In the spring this year, IPReg issued its 2012 annual report to all registrants (**Annex 10**). This contained full details of our expenditure for 2012 and the 2013 Plan and Budget.

The report contained a Financial Review and also full details of the “ABS” spend.

The IPReg audited accounts filed at Companies House confirms income and identifies separately the contingency sums held by IPReg. It should be noted that the income figure shown is total income including “ABS Levy” (**Annex 11**).

5. Regulatory and Diversity Impact Assessments

Fees Matrix

As described in the 2012 application, the fees matrix is structured to ensure that UK registered attorneys and attorneys who are solely European registered attorneys (operating in the UK) and other professionals (lawyers) regulated by us effectively pay the same practice fees to IPReg.

For example:

UK RPA/RTA – individual fee of £170 plus the entity pays £55 for each UK attorney in its employ – total £225.

EPA/ETA – entity pays fees of £225 of each other lawyer in its employ.

Is there an adverse impact on particular sectors of the Community?

IPReg comments, made in its 2012 application, continue to apply. There are no new issues.

IPReg remains satisfied that the matrix is robust and currently fair and understood. As indicated, IPReg will undertake a separate consultation on a possible change of the practice fee matrix for entities to one based on turnover.

Special Bodies

IPReg does not regulate any special bodies and has not, therefore, been required to consider any departure from the general practice fees rules for any one special body or groups of special bodies.

Regulatory Objectives and Better Regulatory Principles

As stated above, in the 2013 Budget IPReg provided for the commissioning of research. This research will now straddle both this year and 2014.

IPReg is intending to propose to the IPO that this work is undertaken jointly with the IPO.

6. Consultation with non commercial bodies and the Consumer Panel

IPReg has not consulted with non-commercial bodies. Intellectual Property legal services are specialist services and are not provided by non commercial bodies such as Law Centres.

The work is primarily “business to business” with only a very small number of individual inventor-clients.

That having been said all the financial information is available on the IPReg website including its management accounts, annual budget and accounts and business plans. IPReg is entirely transparent regarding its finances and financial management.

IPReg is content for the Legal Services Board to consult with the Consumer Panel to the extent this is considered necessary or appropriate.

Conclusion

We believe that the 2014 Business Plan can be implemented on the current levels of income and have determined, subject to approval by the LSB, to keep the practice fees for individuals at their current levels (but without the “ABS levy”).

Our submission to the LSB for approval of the 2014 fees structure reflects our continuing strategic view to maintain a “lean” approach to the provision of a well-focused regulatory capability.

We respectfully request approval of the above proposals.

Ann Wright – Chief Executive

Michael Heap – Chairman

9th October 2013

Annexed Documents

Developing the application/Setting the Budget

- 1 2014 Fees Matrix (unchanged from 2011)
- 2 Budget v Expenditure (September 2013)
- 3 Balance Sheet (September 2013)
- 4 2014 Business Plan
- 5 2014 Budget
- 6 2013 Budget (including reserves)

Permitted Purposes - Allocation of Income

- 7 Pie chart showing allocation of the 2013 budget
- 8 Pie chart showing the allocation of the 2013 expenditure as at September
- 9 Pie chart showing the allocation of the proposed 2014 budget

Clarity and Transparency

- 10 IPReg 2012 Annual Report
- 11 IPReg Financial Statements as at 31 December 2012