

15 May 2013

Mr D Edmonds
Chairman
Legal Services Board
Victoria House
Southampton Row
London
WC1B 4AD

Dear David,

Licensing authority application on behalf of the Chartered Institute of Patent Attorney and Institute of Trade Mark Attorneys

On behalf of the Chartered Institute of Patent Attorneys and the Institute of Trade Mark Attorneys, I am today sending our licensing authority application for your consideration. I thought it would be helpful if I offered some informal comments on the application.

You will be aware that IPReg has always supported the opening-up of the legal services market and the opportunities for competition that it brings. Indeed, intellectual property law firms have led the way in terms of external management and ownership and to that extent our application is simply an extension of the work that we are already undertaking.

As a principles-based regulator we have striven to develop regulatory arrangements for alternative business structures (ABS) that protect the public without imposing unnecessary regulatory restrictions and we believe that we have successfully achieved that balance. We have always resisted micro-regulation of our regulated community and believe this aligns with the views of the Legal Services Board.

In terms of the process, our expectation is that the LSB's review - as part of this licensing authority application - of our regulatory arrangements will focus on overall efficacy and legality, rather than the minutiae of drafting details.

In developing our regulatory arrangements we have also considered the types of body that we should regulate, in terms of their activities. IPReg has a strong reputation as a regulator of intellectual property law firms and it is on such firms that we intend to focus in the future. We believe that there is much to be gained from specialist regulators who have an in-depth understanding of their regulated community and have developed, over the years, the trust which principles-based regulation requires if it is to succeed.

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On the operational side, we have thought long and hard about the resources of all kinds that we will need to support ABS and the timetable for our operational changes. Bearing in mind that:

- we want to be easy to deal with as a regulator; and
- we are paid for by the firms that we regulate, and that high levels of fees might have a deleterious impact on services to clients,

our approach to authorisation, supervision and enforcement is “process-light”. This means we will be cost effective, making the most of our relatively small team. It does not mean, however, that we will be any less robust than other licensing authorities; our resource estimates have been matched to both the size of, and risks exhibited by, our regulatory community and we believe that it is the quality of resources, rather than sheer numbers, that makes the difference between an effective regulator and one that is not. If you or your officials have doubts about the resources we intend to use do please let me know as soon as you can; and it would be helpful if you could share any reasons for your view, or examples/evidence so that we can work on the issues together.

In this application we refer to research that IPReg has conducted, although this is not annexed to the application. You will recall that IPReg conducted detailed research amongst existing registrants in 2012, the results of which provided an evidence base for our policy-making and thinking about our operational requirements. You will also be aware that I gave a commitment concerning the confidentiality of that data. To the extent that we were able to do so, we have shared some information through the Developing Regulatory Standards work.

We look forward to receiving your comments on the application.

Yours sincerely,

Michael

Michael Heap