

Title: Proposed fee changes to registered designs service IA No: BISIPO013 RPC Reference No: Lead department or agency: Intellectual Property Office (Department for Business, Energy and Industrial Strategy) Other departments or agencies:	Impact Assessment (IA)			
	Date: 09/06/2016			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Secondary Legislation			
Contact for enquiries: Helen James 01633 814030, Clare Boucher 01633 814502				
Summary: Intervention and Options				RPC Opinion: Not Applicable

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
£6.35M	£6.35M	-£0.7M	In Scope	Non qualifying provision

What is the problem under consideration? Why is government intervention necessary?

The IPO is currently digitising the registered design service which will lead to significant savings and productivity gains in the application and renewals design process for the IPO. The current application and renewal fees are based on the use of the existing, outmoded, paper-based processing system. In accordance with HM Treasury (HMT) guidelines on Managing Public Money (MPM) any cost savings resulting from the digitisation of the service should be passed onto customers. A change of the application and renewal design fees by Government is therefore needed.

What are the policy objectives and the intended effects?

The Government's policy objective is for application and renewal design fees to be set at such a level to ensure that the costs of processing and managing design applications and renewals are fully recovered. The intended effects of this is a reduction in the fee level to reflect the efficiency savings that have arisen from the move to a digital system.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

- Option 0: Do nothing
- Option 1: Adjust fee levels to achieve full cost recovery

The Government's chosen option is Option 1. This implements the policy objective (fee levels ensure that costs are fully recovered). Our proposed fee structure has been calculated to ensure that we provide at a fee level that matches cost. This is the recommended option.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 10/2021						
Does implementation go beyond minimum EU requirements?			N/A			
Are any of these organisations in scope?			Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: n/a		Non-traded: n/a	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:

Neville-Rolfe Date 2 September 2016

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 5.34	High: 7.24	Best Estimate: 6.35

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0	0
High	0	0	0.1
Best Estimate	0	0	0

Description and scale of key monetised costs by 'main affected groups'

An increase in the fee for certified copies will directly impact businesses and individuals who choose to apply for a certified copy of their design registration. There is currently little demand for this service (7% of all design registrations) and we expect demand to be negligible once the online service is available (a copy of the file will be available online). The annual cost is estimated to be between £5,000 to £7,000 and over 10 years equates to less than £100,000.

Other key non-monetised costs by 'main affected groups'

Businesses and individuals who choose to apply for registration of their design may face familiarisation costs as they update their knowledge on the new fee structure. However, the IPO have already consulted with the design community through our customer insight work and designers welcome the digital system and lower fees. As such any familiarisation costs are likely to be negligible.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0.6	5.4
High	0	0.8	7.3
Best Estimate	0	0.7	6.4

Description and scale of key monetised benefits by 'main affected groups'

Businesses and individuals who choose to apply for registration of their design will be directly impacted by our proposal and will experience a cost saving due to the reduction in design application and renewal fees.

Other key non-monetised benefits by 'main affected groups'

The wider design community will be indirectly impacted by the proposal as the reduction in design fees increases the number of design registrations. This impact is expected to be positive as design registrations provide more certainty for the wider design community, through clarity of design rights and this was confirmed by stakeholders during the consultation. There is no data available however, to monetise this impact.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Assumptions have been made on the number of design applications and renewals over the next 10 years as well as the proportion of applications received digitally versus paper. To gather a view on this historical data has been used as well as stakeholder evidence gathered through consultation. In addition, sensitivity analysis has been applied to the forecast of the number of design and renewal applications and the impact this could have.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: £0m	Benefits: £0.7m	Net: £0.7m	
			n/a

Evidence Base (for summary sheets)

Background

Design is hugely important to the UK economy. Design Council research (2015)¹ found that in 2013, the design economy generated £71.7 billion in gross value added (GVA), equivalent to 7.2% of UK total GVA. Workers with a design element to their work were 41% more productive than the UK average. By giving businesses exclusive rights to their design, design rights help encourage business creativity, drive investment in new products and innovation, and sustain growth. Yet, relatively few designers file for registered designs – just 3% of investment in intangibles is protected by the registered UK design right.

Registering a design protects the look of a product and makes it easier to take legal action against infringement. To register a design in the UK, a paper based application has to be made to the Registry at the Intellectual Property Office (IPO), including the appropriate fee. Designers can continue to protect their rights by renewing their designs and paying a renewal fee every five years up to 25 years.

The Government is developing a new digital service for designs, to streamline the registration process and make it easier for businesses to use, as part of a programme of modernisation for design and in accordance with the government's 'digital by default' agenda. As a result of the efficiencies gained by implementation of the new digital registration service, our costs will be reduced.

The Government launched a consultation process around the proposed design fees. The proposals were strongly supported, with near-unanimous approval from the consultation respondents.² This final stage Impact Assessment takes into account all evidence received during the consultation process, though gaps remain despite extensive formal and informal consultation. The Government has therefore assessed the options based on the available evidence.

Problem under consideration and Rationale for intervention

The Government's new digital service for designs will lead to significant savings and productivity gains in the application and renewals design process for the IPO. In accordance with HM Treasury (HMT) guidelines on Managing Public Money (MPM) any cost savings resulting from the digitisation of the service should be passed onto customers. Therefore, we are proposing to reduce the initial design application and renewal fees to reflect our efficiency savings.

Policy Objective

The objective is to set design fees at a level to ensure that the costs of processing and managing design applications and renewals are fully recovered.

- Option 0 does not propose any action and would leave the design fees at the current level. We need to pass on cost savings to designers in accordance with HMT's MPM guidelines. **This option has therefore been discounted.**
- Option 1 proposes design fees are set at cost and come into force in October 2016.

¹ *The Design Economy: The value of design to the UK*, Design Council, October 2015

² *Proposal for changes to registered design fees: Government Response*, March 2016. Available at: <https://www.gov.uk/government/consultations/proposal-for-changes-in-registered-design-fees> [Accessed: 6th June 2016]

Options

- Option 0: Do nothing
- Option 1: Adjust design fees to recover costs

The Government intends that the change of law occurs on a Common Commencement Date where new regulations which have a bearing on business would start on the same day. Common Commencement Dates are scheduled each year on 6 April and 1 October. It is proposed that the new design fees are changed on 1st October 2016.

Option 0: Do nothing

Doing nothing would mean that the fees charged by the IPO for registration and renewal are greater than the costs of delivering these services. This runs counter to the MPM guidelines and on this basis, the “Do nothing” option has been rejected.

Option 1: Adjust design fees to recover costs

Under this option, the Government would provide design fees at a level that would recover costs. Table 1 presents the proposed fee changes in comparison to the current fees.

Table 1 - Current and new fees

	New fee	Current Fee	Difference in fee
Application – Single (offline)	£60 (up to 1 design)	£60 (1 design)	£0
	£40 (for every design thereafter)	£40 (for every design thereafter)	£0
Application – Single (online)	£50 (1 design)	£60 (1 design)	(£10)
Application – Multiple (online only)	£70 (up to 10 designs)	£60 for 1 st plus	Between (£15) and (£35) per design ¹
	£20 for every 10 thereafter (e.g. 11-20)	£40 for each design thereafter	(£35) per design for more than 10 designs
Renewal 1	£70	£130	(£60)
Renewal 2	£90	£210	(£120)
Renewal 3	£110	£310	(£200)
Renewal 4	£140	£450	(£310)
Certified office copies	£30	£22	£8
Consent for publication	£40	£40	£0
Restoration	£120	£120	£0
A request for information	£24	£25	(£1)
Application for a declaration of invalidity	£48	£50	(£2)

Note 1:

The saving per design is dependent on how many designs are included in one application. The more designs included the higher the saving. If three applications (current average number of designs per application) are included businesses and individuals will save £23 per design (a total cost saving on the application fee of £70).

BENEFITS

Designers

Registering a design is voluntary and the proposal does not change the scope of the design right but reduces the administrative and cost burden of how the design right is obtained.

The main beneficiaries would be individuals and businesses who choose to register their designs. Due to the lower application and renewal fees both registering a design and renewing a design would be cheaper, resulting in a significant cost saving; in the first year of implementation the expected cost saving is approximately £756,000. Table 2 sets out the detail behind this total saving and the key assumptions are as follows (further details on the assumptions are provided under “Risks and Assumptions” section on page 7):

- Growth rate of 17% from 2015-16 initial design applications in the first year of implementation. Design applications have grown significantly over the past 5 years (an average growth rate of 10% per annum). The fee changes and modernised service have the potential to increase this average growth rate further and we forecast a 17% increase in the first year.
- 80:20 split between online and offline applications in the first year of implementation and this assumption has been based on the Intellectual Property Office’s previous experience when moving services online.
- 75:25 split between single and multiple online applications a 95:5 split between single and multiple offline applications. This assumption has been based on historical applications received.
- The renewals are based on known design registration numbers since 1995 and the average historic renewal rate over the past 10 years. Renewal rates have remained stable.
- Applications for other design fees (e.g. consent for publications, restoration etc.) are based on historic registration numbers. Demand for these services are negligible and expected to remain stable.

The same methodology has been applied over 10 years to estimate a NPV of £6.35 million (see IA calculator) and the assumptions detailed above were varied to produce the low and high estimates detailed in the IA calculator (further details on how the assumptions have been varied are provided under “Risks and Assumptions” section on page 7).

Table 2 - Impact of amended fees on businesses and individuals in the first year of implementation

	Expected numbers in first year of implementation ¹	Difference in fee (see Table 1)	Total Saving
Applications²			
Application (offline) – Single	1,575	£0	£0
Application (offline) – more than 1 design	175	£0	£0
Application (online)– Single	1,750	(£10)	£17,500
Application (online) – Multiple, more than 1 design, average of 3 designs	5,250	(£23)	£120,750
Renewals			
Renewal 1	1,605	(£60)	£96,300
Renewal 2	857	(£120)	£102,840
Renewal 3	1,126	(£200)	£225,200
Renewal 4	625	(£310)	£193,750
Other			
Consent for publication	127	£0	£0
Restoration	16	£0	£0
A request for information	60	(£1)	£60
Declaration of invalidity	120	(£2)	£240
TOTAL SAVING:			£756,640

Note 1:

First year of implementation runs from October 2016 to October 2017

Note 2:

The following assumptions around Initial design applications have been made:

- Growth rate of 17% from 2015-16 initial design applications in the first year of implementation. Design applications have grown significantly over the past 5 years (an average growth rate of 10% per annum). The fee changes and modernised service have the potential to increase this average growth rate further and we forecast a 17% increase in the first year.
- An 80:20 split between online and offline applications in the first year and this assumption has been based on the Intellectual Property Office's previous experience when moving services online.
- 75:25 split between single and multiple online applications
- 95:5 split between single and multiple offline applications

Note 3:

The renewals are based on known design registration numbers since 1995 and the average historic renewal rate over the past 10 years. Renewal rates have remained relatively stable.

Note 4:

These fees are based on historic registration numbers.

The cost saving arising from the lower design fees would be particularly beneficial to SMEs and private applicants. Consultation responses received confirms this with the majority of SMEs and private applicants who responded highlighting that the cost of fees had been a significant barrier to registering and protecting their designs. Respondents also said that the reduced fees for multiple applications would encourage them to file applications for parts of a design, as well as the whole. Doing this will improve their ability to protect the innovative aspects of their products.³

Wider design community

The wider design community will be indirectly impacted by the proposal as the reduction in design fees increases the number of design registrations. This impact is expected to be positive (although cannot be quantified) as design registrations provide more certainty for the wider design community, through clarity of design rights. The majority of respondents to the consultation confirmed that they would intend to register more designs as a result of the proposed fee changes, although it was difficult to predict how many. One respondent commented that a benefit of more designs being registered is the registry will be more comprehensive. This will allow designers looking to register their designs to check the register before submitting their application.

Long term benefits to design industry

Long term benefits will be an increased number of design registrations. The design community will be able to rely more on registered design rights than unregistered design rights which will bring greater certainty to the design industry.

COSTS

Designers

Two costs have been identified that could impact on designers who choose to register their designs:

- 1. Familiarisation costs** – Businesses and individuals who choose to apply for registration of their design may face familiarisation costs as they update their knowledge on the new fee structure. It is not possible to quantify this cost but the IPO have consulted with the design community through our customer insight work and designers welcome the lower fees. As such any familiarisation costs are likely to be negligible.
- 2. Increase in certified copy fee** - The small increase in the fee of £8 for certified copies (see Table 1) brings it in line with the cost of providing this paper based service. There is currently little demand for this service (7% of all design registrations request a certified copy) and we expect demand to be negligible once the online service is available (a copy of the file will be available online and designers

³ Proposal for changes to registered design fees: Government Response, March 2016. Available at: <https://www.gov.uk/government/consultations/proposal-for-changes-in-registered-design-fees> [Accessed: 6th June 2016]

will be able to print a copy of the file from their office). If demand for certified copies were to remain at 7% then it is estimated that over a 10 year period the new fees would create an annual additional cost of between £5,000 and £6,000 to businesses and individuals requiring this service.

Wider design community

During the consultation it was highlighted by one respondent that the reduction in renewal fees could have a negative behavioural impact in lowering the incentive to allow unused registered designs to lapse. However, this is dependent as to whether the design right renewal is driven by renewal fees or whether the design remained commercially valuable at the renewal date. By lowering the renewal fee more designs will be commercially viable but this should create positive benefits. Consequently, this cost is expected to be negligible.

Risks and assumptions

Assumptions have been made on the number of design applications and renewals that will be received by the Intellectual Property Office over the next 10 years and the format of this receipt (i.e. digital application or paper application). To gather a view on this historical data on design applications and renewals has been used as well as stakeholder evidence gathered through consultation. The key assumptions made are:

1. The number of design applications are forecasted to grow at 17% annually in the first three years of the proposal and this is a key assumption behind the BEST estimate in the IA calculator. Design applications have grown significantly over the past 5 years (an average growth rate of 10% per annum). The fee changes and modernised service have the potential to increase this average growth rate further and we forecast a 17% increase in the first three years. Thereafter we have assumed stable application receipts. To obtain the LOW and HIGH estimate the growth forecast in design applications was varied between 10% (the current average 5 year growth) and 25% (the maximum growth rate in any one year the department has experienced over the past 5 years).
2. The percentage of design registrations renewed were varied. For the BEST estimate in the IA calculator the expected renewal rate was estimated as the average of historical renewals over the past 10 years. The LOW and HIGH estimates were based on the lowest and highest renewal rate experienced over the past 10 years.
3. A 80:20 split between online and offline applications in the first year of introduction of the new policy; 90:10 in second year and settling to 95:5 going forward. This assumption has been based on the Intellectual Property Office's previous experience when moving services online.
4. A higher number of online applications will be multiple applications (as opposed to a single application). Responses to the consultation implied that the option of applying for up to 10 designs for £70 as opposed to one design for £60 will see an increase in the number of multiple applications. Statistics on the split between single and multiple applications are not available and it has been assumed that the majority (75%) of online applications will be multiple. Of those multiple applications it has been assumed that there will be 3 design applications on average and this has been based on historical data and our consultation responses.

Assessment of the business impact to micro businesses and SMEs

Micro businesses and SMEs have been included in all calculations. The cost saving arising from the lower design fees would be particularly beneficial to SMEs and private applicants. Consultation responses received confirms this with the majority of SMEs and private applicants who responded highlighting that the cost of fees had been a significant barrier to registering and protecting their designs. Respondents also said that the reduced fees for multiple applications would encourage them to file

applications for parts of a design, as well as the whole. Doing this will improve their ability to protect the innovative aspects of their products.⁴

Wider impacts

The main groups that are directly affected are businesses and individuals who choose to register their design and the wider design community.

The Government is of the view that no other sectors will be impacted.

Summary and preferred options with description of implementation plan

The preferred option in this Impact Assessment implements the new design fees on 1st October 2016.

Evaluation

The Government proposes to evaluate the impact of the design fee changes 5 years after the change in law has commenced. The evaluation will assess the impact on the UK's design industry.

⁴ *Proposal for changes to registered design fees: Government Response*, March 2016. Available at: <https://www.gov.uk/government/consultations/proposal-for-changes-in-registered-design-fees> [Accessed: 6th June 2016]