

EXPLANATORY MEMORANDUM TO

THE TRADE MARKS AND TRADE MARKS AND PATENTS (FEES)(AMENDMENT) RULES 2009

2009 No. 2089

1. This explanatory memorandum has been prepared by the Department for Business, Innovation & Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The purpose of the instrument is to revise some of the fees and services that the Intellectual Property Office charge/offer in relation to its trade mark and patent registration functions. Amendments are also being made to the provisions relating to applications for series of trade marks. The revised package is intended to reduce, overall, the fees payable by businesses whilst also creating a package of fees and services that is both fairer and proportionate compared to the work that goes into the relevant processing tasks.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The committee should note that one of the fees (the fee for an extension of time in trade mark proceedings) is to be increased from £50 to £100 and is, therefore, above the rate of inflation. However, this fee has not been increased since it was first introduced in 1994. Further, the increased fee for requesting an extension of a time period is part of a package of fees changes and new services which has the overall effect of reducing the amount of official fees paid by business to the Intellectual Property Office by around £700,000. The increase in the extension of time fee is intended to incentivise parties to promptly prosecute their cases; without prompt prosecution, other parties to trade mark proceedings may be faced with uncertainty and delay which, inevitably, increases their costs. It should also be noted that no person acting within the specified periods for taking actions before the Registrar of Trade Marks will have to pay the fee for requesting an extension of time.

4. Legislative Context

4.1 This instrument is being made in order to amend the relevant trade marks and patent rules (including fees rules) so as to give effect to the new package of fees and services.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom, including the Isle of Man.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 A number of changes are being made. We are introducing a system whereby the Intellectual Property Office will examine a trade mark application for payment of half the usual fees so giving the applicant an informed choice (after considering the examination report) about whether to proceed with the application and pay the rest of the fee. This, effectively, halves the financial risk for businesses making trade mark applications. This is principally a change in trade mark examination policy. Currently, where a trade mark application is not accompanied by the relevant fees the registrar will give the applicant a period of not less than one month in which to pay. Where applicants opt to take advantage of this service it is considered that the balance should be payable within a shorter time frame and extensions to this made subject to the filing of a Form TM9. Therefore, the only rule changes required to implement this is the amendment to rule 13(2), which enables the Registrar to set a minimum 14 day period for the payment of the second half of the application fees, and the amendment to Rule 77 (in relation to extensions of time). We are also introducing an e-filing discount to encourage more businesses to conduct e-commerce with us and to further reduce the financial burden on businesses. We are bringing in powers to suspend the fast-track trade mark service because the speed of our standard service is now as quick as that of our fast-track service. We are introducing new fees for applications for series of three or more trade marks so as to reflect the additional time and cost involved in the examination and administration of such applications. Further, we are introducing a cap on the number of trade marks that can be filed as a series (6) and removing rules that permit applicants to divide unsuccessful applications for series into separate applications. These measures are intended to prevent abuse of the series provisions by applicants who file speculative applications for large numbers of marks as a supposed series, or applications for smaller numbers of marks which manifestly do not form a series under the law. We are also increasing the fee for an extension of time in trade mark proceedings before the Intellectual Property Office.

The above measures are aimed 1) at reducing the costs payable by business – the estimated net savings for business are £700,000 (see the impact assessment for more information), 2) to ensure that our fees better reflect the processing tasks required to discharge our duties (hence the fee reduction for e-filers and the fee supplement for applications for series of marks) and, 3) to ensure that parties involved in proceedings before us are focused and do not cause undue delay to other parties.

- *Consolidation*

7.2 As the instruments being amended were made relatively recently and only minor (and few) amendments have been made to them so far it not necessary to consolidate at this stage. An informal consolidation will, however, be available on the website of the Intellectual Property Office.

8. Consultation outcome

8.1 Most of the proposals received strong support (in particular the half payment option and the e-filing discount). In relation to series of marks, we consulted on whether to abolish them or to charge for them, the majority view was that they should be retained but that it was reasonable to introduce a charge. We have accepted this view and introduced some further measures to restrict mis-use of the relevant provisions. In relation to the extension of time fee, most of the consultation respondents focused on other trade mark tribunal fee proposals, which are not being proceeded with: those who did comment provided a mixed response. Overall, there was little specific concern about the proposed fee increase for requests for extensions of time in trade mark proceedings.

8.2 The Administrative Justice and Tribunals Council have also been consulted and are content with the proposals.

9. Guidance

9.1 Full and detailed guidance about the new proposals has been published on the website of the Intellectual Property Office.

10. Impact

10.1 The impact on business, charities or voluntary bodies is a positive one. The overall cost to business is reduced and these changes will be of particular benefit to small and medium sized businesses (who often do not have professional legal assistance).

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 There is no need to minimise the impact of the requirements on firms employing up to 20 people because the changes benefit them in terms of reduced cost/risk.

12. Monitoring & review

12.1 The changes will be continuously monitored and will be formally reviewed 12 months from implementation.

13. Contact

Oliver Morris at the Intellectual Property Office, Tel: 01633 814287 or email: oliver.morris@ipo.gov.uk, can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: BIS Intellectual Property Office	Title: Impact Assessment of "Helping Businesses Register Trade Marks and Patents - Consultation on Fees and Services"	
Stage: Implementation	Version: 2	Date: 17 July 2009
Related Publications: Consultation document & response document which can be seen at www.ipo.gov.uk		

Available to view or download at:

<http://www.ipo.gov.uk>

Contact for enquiries: Oliver Morris

Telephone: 01633 814287

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

1. In the current economic climate there is a risk that businesses will not protect their intellectual property which will harm both those businesses and UK competitiveness in the longer term.
 2. There is also a need to make continuous service improvements so that the Intellectual Property Office can provide businesses with a fiscal incentive to register national trade marks (as compared to Community trade marks), and to apply for patents, where appropriate to business need.
- Government intervention is required because government sets both the cost to business and the administrative system of protecting national trade marks and of applying for patents.

What are the policy objectives and the intended effects?

The objectives are:

- 1) to reduce the cost to business of protecting trade marks and applying for patents;
- 2) to use fees to encourage timeliness and good practice;
- 3) to introduce an incentive to business to e-file trade mark and patent applications at the Intellectual Property Office as part of a strategy of encouraging e-business.

The intended effects of the above are to reduce the cost burden on business and to ensure that the Intellectual Property Office's services are efficient and effective.

What policy options have been considered? Please justify any preferred option.

Do nothing, but this would not assist businesses in view of the problems identified above.

We considered and consulted on a range of proposals, some of which (after taking into account the consultation responses) have not made the final package. The final package reduces the overall amount of fees payable by business and also assists businesses to register new trade marks and apply for patents.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? First review - October 2010

Ministerial Sign-off For final proposal/implementation stage Impact Assessment:

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

Signed by the responsible Minister:

David Lammy

.....Date: 23rd July 2009

Summary: Analysis & Evidence

Policy Option:	Description: Trade marks and designs: Fees and services
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' The changes reduce the overall fees paid by businesses to the Intellectual Property Office but, as part of the package, some costs increase, namely: fees for filing larger series of trade marks and fees for extensions of time.		
	One-off (Transition) Yrs			
	£ 0			
	Average Annual Cost (excluding one-off)			
	£ 77,500	Total Cost (PV)	£ 77,500	
Other key non-monetised costs by 'main affected groups' None				

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' The changes reduce the overall fees paid by businesses to the Intellectual Property Office, those that specifically reduce fees are: incentive for e-filing both trade mark and patent applications and the "Right Start" trade mark service.		
	One-off Yrs			
	£ 0			
	Average Annual Benefit (excluding one-off)			
	£ 778,268	Total Benefit (PV)	£ 778,268	
Other key non-monetised benefits by 'main affected groups' Although an applicant using the "Right Start" service will not save money if, after receiving the examination report, he opts to continue, the reduction in risk (of "losing" all the fees paid) associated with making an application will be of benefit. The additional fees for extensions of time should speed up proceedings.				

Key Assumptions/Sensitivities/Risks Key assumptions based on best estimate of 5% increase in demand for trade marks as a result of new fees and increased e-filing of trade marks from 50% to 80% and of patents by 20%. Net benefit range is based on no increase in any applications and no increase of e-filed patent applications (lower bound) to a 10% increase in trade mark demand (upper bound).

Price Base Year 2009	Time Period Years 1	Net Benefit Range (NPV) £ 627,500-£771,500	NET BENEFIT (NPV Best estimate) £ 700,768
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What is the geographic coverage of the policy/option?				UK	
On what date will the policy be implemented?				1/10/09	
Which organisation(s) will enforce the policy?				Intellectual Property Office	
What is the total annual cost of enforcement for these organisations?				£ 0	
Does enforcement comply with Hampton principles?				Yes	
Will implementation go beyond minimum EU requirements?				N/A	
What is the value of the proposed offsetting measure per year?				£ N/A	
What is the value of changes in greenhouse gas emissions?				£ N/A	
Will the proposal have a significant impact on competition?				No	
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)	
Increase of	£0	Decrease of	£ 18,300	Net Impact £ 18,300 decrease

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base (for summary sheets)

The primary drivers of the package are that 1) the fees levied by the Intellectual Property Office encourage national registration of trade marks and applications for patents where this is appropriate to business need/geographical scope, and 2) to help business to continue to protect its intellectual property in the current challenging times. The overall reduction in the fee burden for trade mark registration and the proposed patent e-differential fees, are simple mechanisms to assist customers by reducing the fees that they have to pay. The changes have been formulated taking into account a recent market research exercise conducted by the Intellectual Property Office and after taking into account the consultation responses in relation to the initial proposals set out in consultation.

Proposals 1 (“Right Start” trade mark service), 2a (e-filing discount - trade marks) & 2b (e-filing discount - patents)

The proposals are that for those who e-file their trade mark applications and also pay their filing fees at the time of filing, a reduction of £30 from the standard cost of £200 will be applied. Furthermore, for those applicants who make a “Right Start” trade mark application (by paying 50% of the relevant filing fees), their applications will be examined, so giving the applicant a choice on whether to proceed further with the application before having to pay the balance of the filing fees. This means that potential applicants can choose between 1) paying [the whole of] a reduced fee in order to take advantage of the e-filing discount, or 2) paying half the existing fees and receiving the examination report before paying the balance of the current application fees, or 3) continuing with the current methods of filing and/or payment. No one will have to pay more than they do now to file a standard application.

The proposals also include a reduction of £10 in the patent application, search and examination fees (from standard costs of £30, £100 and £70 respectively) for e—filed patent applications. These will apply to applicants who file their application and Patents Form 1 electronically, or who file their Patents Form 9A or 10 electronically, and who pay the relevant application, search or examination fee electronically at the same time. Once again, no-one will have to pay more than they do now to file a standard (paper) patent application.

The responses to consultation were, broadly speaking, very positive. Most who responded felt that the trade mark e-filing discount was a good idea. Respondents who commented on the patent e-filing discount were also supportive, although some questioned whether the discount was sufficient to modify filing behaviour in a significant way. No one identified any disadvantages. In relation to the Right Start service, again, the majority of responses welcomed the proposal.

Monetary costs/benefits

Our forecast for trade mark demand in the financial year 2009/2010 is to receive 28,000 applications. We have predicted 15,400 patent applications where the application fee is paid for the financial year 2009/2010. The fee package and new services outlined in the consultation document and in this impact assessment will, we believe, encourage more businesses to protect their intellectual property (particularly trade marks) which may, otherwise, not have done so. With these fee changes, we predict an increase of around 5% per annum over the current forecast for trade mark applications and for the level of demand for patents to remain the same. Although the changes will only come into force in October 2009 (midway through the financial year), in order to assess annual costs/benefits going forward we have calculated the effect of a 5% increase in trade mark demand on an annual basis; the following calculations are, therefore, based on receipt of around 29,400 trade mark applications in the first full year after the change and 15,400 patent applications on which the application fee has been paid.

Currently, 14% of trade mark applications are filed without any filing fees and enter what is known as a period of grace (POG) for payment purposes. POG applicants will not make any savings from the proposed changes and we must, therefore, exclude them from our savings

calculation. Likewise, those who apply for patents without paying the relevant fee electronically will be excluded from the savings calculation. However, there are savings to be made by businesses that either pay upfront (and e-file) or utilise the Right Start trade mark service. As a result of the changes, we expect fewer trade mark applicants to file applications without any filing fees; we estimate that the proportion of cases in this category will halve to around 7% of applications.

Excluding POG cases, the balance of trade mark demand is around 27,342 applications. Savings (or potential savings) will only be made by applicants who e-file. Our current trade mark split between those that e-file and those that file with a paper based form is 50/50. However, the savings to be made by e-filing will have an effect on this current split. We expect an increase in the number of trade mark e-filers so that the split is 80/20 in favour of e-filing (21,874 of all filings excluding POG); this is supported by the market research recently conducted. For patent applications, we have predicted a 20% increase in the total number of applicants who file electronically.

For trade marks, to assess savings, we must estimate what proportion of e-filers will pay the whole fee (minus the e-filing discount) and what proportion will utilise the Right Start service so as to defer half the application fees at least until they have received the examination report. As part of our analysis, we need to consider the number of applicants who have professional representatives (we realise that the Right Start service is less likely to be used by those with professional representation given that the risk of making the application will have already been assessed) compared to those who do not. The split of applications between those who have professional representation and those who do not is around 50/50. Our estimated breakdown of likely route for e-filed applications is set out below:

<u>e-filed trade mark applications (excluding POG)</u>	21,874
e-filed applications (professional representation 50%)	10,937
Right Start (20%)	2, 187
Simple e-filing (80%)	8,750
e-filed applications (unrepresented) (50%)	10,937
Right Start (50%)	5468
Simple e-filing (50%)	5468

On the basis of the above, we expect to apply the trade mark e-filing discount for upfront payers to some 14,218 applications and that 7,655 applications will be made using the Right Start service. The calculation for the savings to business of the e-filing discount is a simple one as the discount is a flat fee of £30. **This equates to a saving of £426,540 for trade mark applicants.**

The savings to be made through the trade mark Right Start service are more complicated because monetary savings are only made by those who get an examination report but decide not to pursue it and, therefore, no longer have to pay the balance of the filing fees. Based on current levels of absolute grounds objections of examination and the fall out rate of applications where there is a potential notification on relative grounds, balanced against the fact that some applicants will proceed to examination to challenge an examination report, we expect that of those applications using the Right Start service, around 80% will proceed to the next stage and 20% will not. Therefore, around 1531 applications will make a saving of the balance of the application fee and relevant class fees (currently we receive an average of 1.375 additional classes per application) **which equates to £205,728.** We can see no monetary costs.

For patent e-filers, the benefits to business are calculated (based on an assumption that the proportion of e-filers remains the same) on the basis of a flat discount of £10 off the application, search and examination fees – and this equates to a **£122,000** saving to patent applicants. Based on an assumption that there is a 20% increase in the number of e-filers (but the same

level of demand overall) the total savings to business equate to **£146, 000**. Assuming the latter, **the total monetary savings to business for proposals 1, 2a & 2b equates to £778, 268**.

Non-monetary costs/benefits

In terms of the reduced fee for e-filers, there are further benefits in that, as a greater proportion of applicants opt for e-filing, the business processes required to administer the cases will become simpler and will lead to a more efficient process, for example, internal costs will fall and turnaround times for examination should improve. There is also a significant environmental advantage to e-filing, and its efficient operation with internal electronic case-file systems (in place for patents, under development for trade marks). There is also the benefit to business of greater certainty associated with the instantaneous receipt and acknowledgment of an e-filed application. It should also be easier for businesses to administer in terms of preparing and submitting trade mark and patent applications (for more information on this see the “administrative burden” section towards the end of this Impact Assessment).

In terms of the trade mark Right Start service, whilst there will be a monetary saving (see above) for some, another key benefit relates to risk management. One of the factors which appears from our research to potentially put off small business from applying for trade marks is that despite paying the full application fee, there is no “guarantee” that the mark will be accepted. Only having to pay 50% of the fee will, therefore, limit the risk involved in application and will give greater peace of mind and so encourage registration of what is an important intellectual property right. Again, the market research and the responses to consultation tell us that smaller businesses that have no legal representation will find this option particularly useful.

We can see no non-monetary costs. Applicants still have a free hand in which form to apply and the standard application fee for paper applications and POG applicants will remain the same. The fact that professionally represented applicants are unlikely to make significant use of the Right Start service is important to consider, however, this does not form a non-monetary cost as no one is required to use it and all current systems are available.

Proposal 3 - Charging for every mark in a series beyond the first 2 and limiting the total number of marks to 6

We consulted on either abolishing provision for series of trade marks altogether or, alternatively, to start charging £50 for each mark in the claimed series (beyond the first two marks). This proposal is aimed at preventing abuse of the registration system and reconciling the additional costs to the Office of examining applications for series of marks. In response to consultation the majority view was that the ability to apply for a series of marks should be maintained, but most respondents agreed that it was reasonable to charge extra for them. A significant minority were against their retention.

We intend to retain provision for series of marks (subject to a fee supplement) but to limit the maximum number of marks in a series to 6. Capping the number of marks was suggested by two of the respondents (although they suggested a higher cap) and represents a reasonable compromise between retention and abolishment and, more importantly, significantly reduces the degree to which the series provisions can be abused whilst also reconciling the additional cost of examination and administration. Only 4% of series applications contain more than 6 marks, the impact will, therefore, be minimal. To further reduce abuse we have also removed the provisions relating to the division of series marks into separate applications, the possibility of which appears to encourage speculative applications of this kind.

In terms of costs, in 2008, there were 3500 applications to register a series of trade marks. Of these, around 60% (2100) were for only 2 marks in the series. Therefore, allowing a series of two marks as part of the basic application fee will ensure no additional cost burden for the majority of relevant applications. However, for applications to register a series of 3 or more marks (but no more than 6), an additional fee of £50 would be required for each mark above 2. For the marks that make up this category an additional (above the first two) 2200 marks were applied for in 2008. However, it is our strong belief that this number would be vastly reduced

when a fee is charged for these additional marks. We estimate that the number of additional marks in applications to register a series of marks (above 2 per application) would be in the region of 750 marks per annum. **So introducing a cost of around £37,500.** Whilst this is an additional cost, it nevertheless reflects the additional work that goes into the examination of applications to register series of marks. Currently, the cost of an application to register a single mark is the same as the cost of an application for a series of 96 marks (the largest number of marks applied for as a series in 2008). We estimate that it costs the Intellectual Property Office in the region of £250,000 to examine and to provide the administrative mechanisms to process series marks (including those for handling divisions). Even with the reduced numbers of series marks identified above and the removal of the provision for division of applications for series of trade marks, the cost to the Intellectual Property Office is still likely to be at least £80,000; therefore, the cost to business as identified above appears justified.

Proposal 4 - Suspending the trade mark fast-track examination service

We consulted on either abolishing the procedure for trade mark fast track examination (where for an additional fee of £300 the Intellectual Property Office will aim to issue an examination report within 10 working days, or to refund the money if that aim is not met) or to allow the Intellectual Property Office to suspend the service having regard to the speed of its standard application service. The reason for making this proposal is that the speed of standard examination is now close to that of fast track. This, therefore, seriously limits the advantage of fast track examination. There is also the danger that an applicant may opt for fast track (so paying the £300 additional fee), when they may have got the same turnaround through making a standard application. This could, therefore, create unnecessary cost for business.

We will introduce provision for the Registrar to suspend rather than abolish the service. This view has been reached after taking into account the consultation responses in which a majority felt that suspension was the better option in order to allow the service to be offered in the future if the speed of standard examination fell back from its current level. We can see no cost to business, be it monetary or otherwise, of suspending the fast track service in appropriate circumstances. Applicants will still be getting examinations at fast track speed, but without paying an additional fee.

Proposal 5 – changes to tribunal fees

The above proposals relate to the tribunal fees that are charged by the Intellectual Property Office to administer and decide disputes between two or more parties in relation to the trade mark matters for which we have jurisdiction. We initially consulted on doing the following 1) to reduce the fee for filing an opposition to the registration of a new trade mark from £200 to £100, 2) to increase the fee for extensions of time periods from £50 to £100 and, 3) to extend the same £100 fee for extensions to the cooling-off period and to requests for most stays of proceedings.

Despite being a fee reduction, there was strong opposition to the proposed change in the opposition fee. This was based on the risk of an increasing opposition rate due to a higher number of speculative or vexatious oppositions being filed. This proposal is, therefore, no longer being pursued. In relation to the proposal to introduce a fee for stays of proceedings and a fee to extend the cooling-off period, there was a negative response from the majority of respondents due, primarily, to the fact that negotiations should be encouraged rather than discouraged and that disputes could arise as to who should pay for stays of proceedings. For this reason, these proposals have also been dropped from the package of changes.

We will proceed with the proposal to raise the extension of time fee to £100. There was more support for this proposal; there was certainly much less negative response. The fee charged will, we believe, have a positive impact on encouraging parties to conclude proceedings more swiftly rather than letting proceedings drag on unnecessarily. Although this change results in an increase in the cost to business, the new overall fee structure represents a fairer, more

balanced approach. It should also be noted that any party can avoid the extension of time fee by complying with the reasonable time periods that are allocated, free of charge, to file evidence. In terms of monetary value, our analysis is as follows:

Extension of time fee - We normally receive in the region of 1000 requests per year. We believe that the higher fee will encourage more parties to adhere to the set time periods. Indeed, this is one of the drivers for change. We therefore expect the above figure to reduce to around 800 requests per annum. **This means that the increase in the EOT fee increases the fees paid by businesses to the Intellectual Property Office by £40,000.**

Overall cost impacts

Proposal 1	Business saving of:	£205,728
Proposal 2a	Business saving of:	£426,540
Proposal 2b	Business saving of:	£146,000
Proposal 3	Business cost of:	£37,500
Proposal 4	No real cost effect:	£0
Proposal 5	Business cost of:	£40,000
Total is a business saving of £700,768		

Administrative burden calculations

Basic fee reductions/increases will have no impact on administrative burdens. The only possible administrative burden changes could be:

- 1) Savings to administrative burden should be achieved by the increase in businesses e-filing their trade mark applications. Based on the figures in proposals 1 & 2a, the number of applicants e-filing would increase from 13,671 (50% of 27,342) to 21,874. This totals 8,203 application forms which should be quicker to complete. **Using estimates in the administrative burdens measurement exercise this would deliver an administrative saving of approximately £16,500.**
- 2) As in 1 above, savings to administrative burdens should also be achieved by the increase in businesses e-filing their patent applications. We estimated in relation to proposal 2b an increase of 20% in the number of patent e-filers compared to the current rate. This equates to around 900 application forms which should be quicker to complete. **Using the same estimates, this would deliver an administrative saving of approximately £1,800.**

Therefore, the overall impact on administrative burdens would be a saving of £18,300.

Specific impact tests

Competition assessment

Questions 1-4 below relate to the issues considered under the competition assessment. As indicated in the answers, the proposals will have no impact on competition.

Do these proposals:

1. Directly limit the number or range of suppliers?

None of the proposals made will materially change the nature of the protection provided by a trade mark registration. The manner of accessing the national registration system will be easier/cheaper in some circumstances, this will not, therefore, have a limiting impact. The same applies to patent applications.

2. Indirectly limit the number or range of suppliers?

No, the proposals do not indirectly affect the number or range of suppliers.

3. Limit the ability of suppliers to compete?

No, the proposals will not affect the ability of a supplier to compete.

4. Reduce suppliers' incentives to compete vigorously?

No, whilst some of the mechanics (such as the "Right Start" service) of the national registration system will change for those who opt for this method, this is about making access easier and, furthermore, no one is obliged to use this method of application.

Small Firms Impact Test

The proposed changes only reduce the cost to all businesses (including small firms) so do not affect access to the national registration system. The "Right Start" service will be particularly useful for small firms (the consultation respondents strongly agreed with this) who will see it as a facility in limiting the risk involved in making a trade mark application because previously they had to pay the full fee before their mark was examined.

The proposed fee increases could have an impact, but our analysis shows that fewer small firms (particularly those who do not have professional representation) file for a series of trade marks. There is, therefore, no disproportionate or serious impact on small businesses. In fact, any differences in the impact of the changes tend to favour small businesses over larger ones. The same applies to the tribunal fee that has been increased as small firms tend, on average, to require fewer extensions of time in proceedings.

The proposals have been brought to the attention of small firms through initial focus groups and by highlighting the consultation to some 5,000 customers. The impact has been assessed after taking all this into account.

Legal aid and sustainable development

There are no impacts on the above.

Carbon assessment and other environment

The encouragement to e-file rather than use traditional postal/courier services will have some positive environmental impact, however, in the scheme of things, this is very small and impossible to quantify above negligible.

Health impact assessment race equality, disability equality, Gender equality, human rights & rural proofing

There are no impacts on any of the above.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes