



Sent by email only to ipreg@ipreg.org.uk

5 January 2017

Dear Sir/Madam

IPReg Consultation – response to the recommendations of the CMA’s Legal services Market Study Report.

The Legal Services Consumer Panel (Panel) welcomes the opportunity to respond to IPReg’s consultation on its transparency measures.

We accept the need to balance the Competition and Markets Authority’s (CMA) transparency recommendations, against the reality that IPReg regulates a small community of attorneys. That said, we cannot lose sight of the fact that IPReg provides a statutory function, with clearly defined statutory objectives. One of its objectives is to protect and promote the interest of consumers. We do not think that these proposals go far enough to protect and promote the consumer interest with regards to the deficiencies found by the CMA.

Reflecting on the consultation questions

Question 1: What are your views on Iprege’s proposed approach, in particular our proposals that:

- **Any changes would be incorporated in Guidance rather than Rules/Regulation**
- **The focus of any changes to our Guidance should be on those attorneys that provide services primarily to individual consumers and small businesses. Should Iprege develop criteria to determine which attorneys might be covered by such Guidance?**

The Panel is disappointed that IPReg is proposing to rely on guidance in place of mandatory rules. Guidance has little legal or regulatory weight in comparison to rules. We do not believe that this approach aligns with the letter and spirit of the CMA’s recommendation which calls on regulators to ‘require providers to publish information on price, services, redress and regulatory status’.

The history of in-action in this sector suggests that providers need to be directed to act. The wide-spread absence of price transparency and the continuing handicap this poses to the demand side, and competition, warrants robust regulatory intervention. Without direct intervention, providers will not be incentivised to take action.

We accept that the CMA's recommendations focused on whether the market is working for ordinary consumers, as well as small businesses. However, for the sake of consistency, we believe that IPReg should ensure that its requirements applies across the board.

Question 2: What are your views on providing this type of information on attorneys's website?

The Panel welcomes IPReg's consideration of how to provide consumers with pricing information. The Panel has been clear that information provision only works when there is a concerted effort to understand what consumers need and the best way to present the information¹. Often this means it has to be simple and accessible at the point of need. However, arriving at what is simple and accessible is not always easy. This is why we have consistently said that information needs to be tested, and then evaluated in use to ensure that the outcomes are the desired ones. It is disappointing that IPReg makes no reference to these important methods.

We accept that regulators of varying sizes may not be well resourced to commit to elaborate research. If resource is a hindrance, there is scope and good reason for IPReg to pool resources and work with others. Working with other regulators to develop and test ways of presenting cost information both enables smaller regulators to fund the needed work and introduces some standardisation in approach, both of which benefit consumers.

Question 3: What are your views on the provision of this type of pre-engagement information on attorneys' website

The Panel supports transparency around consumer's right to redress and compensation. We also support transparency around the regulatory status of providers. However, there is no information in the consultation document about how IPReg would mandate for this. For instance, would it require providers to follow a standardised template or would it give providers flexibility on how the information should be presented? IPReg needs to explore and determine what would work for consumers, and if necessary draw on lessons from other sectors.

Question 4: Is there any more information that should be provided?

The CMA recommended that regulators should ask firms to publish a description of the services they provide on their websites. This information should include details on the different staff who deliver services, a timeline showing when key stages of the work will be completed, and any factors that could affect these requirements. The CMA envisioned this information helping consumers to assess and compare what different firms offer. The Panel is unclear about whether IPReg proposes to take regulatory action where service information is concerned.

¹ [Information Remedies, LSCP, 2017](#)

In our view, there should be a requirement for the publication of service information, especially timescales. As noted in our Open Data report², information on price is not enough. Consumers also need service and quality information where possible.

Question 5: What are your views on providing information about complaints on attorneys' website? What other type of information about quality could be provided?

The publication of the volume and nature of first tier complaints data has the potential to improve market transparency and to aid consumers in making informed decisions. Complaints data can also provide commentators or intermediaries with more complex information which they are better placed to repackage in simplified form for consumers. Also, it is well argued that the availability of complaints data acts as a deterrent against poor practice, helps to identify areas of high risk, and can guide decisions around prioritisation for approved regulators

In our Open Data report,³ the Panel expressed strong views in favour of the publication of complaints data. We said that we would like to see all approved regulators consider what is most appropriate for their regulated communities, to consult on options, and then decide on how to make this information available. The Panel said that the publication of complaints data could be at firm level or the data could be aggregated by the individual regulator. The important thing is that it is easy for consumers to find and use to inform decisions.

IPReg states that it already publishes complaints data in its Annual Report. While we agree that this information may not be a priority for providers' website, we believe that IPReg can do more with the information it collates. We would like IPReg to consult on whether it should publish the information it collates at firm level. Moreover, the aggregate data on complaints is unlikely to be useful to consumers and consumer groups if these are in the Annual Report.

Question 6. Would providing disciplinary information on the register be useful?

The Panel has consistently said that basic and regulatory information is scattered in the legal services sector. This makes it difficult for consumers to access and assess information. Consumers are expected to go to different sections of different websites, find the information they need, piece it together, and then make sense of it. As such, we have asked approved regulators to do more to bring together regulatory information in a meaningful way. In our Open Data report,⁴ we said a starting point would be to link basic information with conduct and complaints data. It is, therefore, our strong view that disciplinary information should be provided on the digital register.

² Opening up Data in Legal Services, LSCP, 2016

³ Ibid.

⁴ Ibid.

Question 7. What are your views on IPReg’s proposed approach to quality marks and regulatory badges?

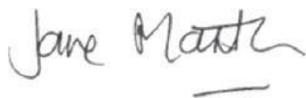
IPReg’s view is that ‘the wider issue about quality marks and/or regulatory badges are more appropriately addressed in the longer term, perhaps during the re-development of the Legal Choices website and/or if a single digital register is established’. The Panel does not understand this reasoning. Unfortunately, there is very little in this consultation around developing or publishing quality proxies. It is important to emphasise that the CMA and the Panel both highlighted the need for quality information to sit alongside pricing information.

Question 8: Do you have any comments on the approach taken by IPReg on the Legal Choices website, a single digital register or independent feedback platforms?

The Panel supports the approach adopted by IPReg with regards to the Legal Choices website.

If you would like to discuss any aspect of this response in more detail please contact Lola Bello at lola.Bello@legalservicesconsumerpanel.org.uk.

Yours sincerely

A handwritten signature in black ink that reads "Jane Martin". The signature is written in a cursive style with a horizontal line underneath the name.

Dr Jane Martin

Chair