



Consultation on the Reform of the UK Designs Legal Framework

The Intellectual Property Office is seeking information upon the proposed reform of the designs UK framework. The responses to this consultation, together with other evidence, will help shape these proposals.

On this form, please provide your responses to the questions outlined in this document.

You do not have to complete the whole form – please answer the questions relevant to you.

Please Note: this consultation forms part of a public exercise. As such, your response may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). We plan to publish responses on our website when they are received.

If you do not want part or the whole of your response or name to be made public, please state this clearly in the response, explaining why you regard the information you have provided as confidential. If we receive a request for disclosure of this information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system cannot be registered as a formal request for confidentiality.

Designs Review Team

Response form

Please enter your responses to pertinent questions in the boxes provided.

Click on the grey box and start typing.

Measures to simplify design law and get the IP framework to better support innovation

Changes to UK Unregistered Design Right (UDR)

Question 1

Do you agree with the proposal to retain UK unregistered design right? Please give reasons for your answer.

The British Brands Group does not support the long term retention of the UK unregistered design right and believes that this right should be abolished in favour of broadening the scope of protection under UK copyright law and more effective protection against acts of unfair competition. This action would harmonise more closely UK law and practice with other EU member states.

The current system of four different forms of design rights in the UK is both complex and difficult for designers to comprehend, particularly given the substantial differences in their scope of coverage and length of protection. This multi-faceted system also makes the clearance and enforcement of such design rights problematic.

Furthermore, whilst the UK unregistered design right does indeed provide additional protection to eligible designers in some limited circumstances (as outlined in the consultation), the British Brands Groups understands that UK unregistered design rights are rarely relied upon given that civil infringement cases are prohibitively expensive for individual designers and SMEs.

However, on balance the British Brands Group cannot support the reduction of available rights for our members, irrespective of their efficiency and effectiveness, and must therefore support the current retention of UK unregistered design right until such a time as the scope of protection of UK copyright law has been amended and there is more effective protection against acts of unfair competition.

Question 2

What are the circumstances in which UK unregistered design right could be removed?

As outlined above, we could foresee the removal of the UK unregistered design right on the introduction of more effective protection against acts of unfair competition and the broadening of the scope of protection under UK copyright law.

Changes to the definition of UK Unregistered Design Right

Question 3

In your experience has the wide scope of protection afforded by UK unregistered design right been used to prevent others from establishing new designs? Please give examples.

We are not aware of instances involving our members. Designers presumably

know whether or not they have copied so we question the extent of any uncertainty. In the interests of innovation we consider it right that designers should be encouraged to be novel and distinctive and be discouraged from copying.

Question 4

Have you been deterred from launching designs as a result of being unsure of whether you were infringing existing UK unregistered designs? Please give any details.

We are not aware of instances involving our members. There should be no uncertainty if the designer has not copied.

Question 5

In your view does the wide scope of protection provided by UK unregistered design right have other consequences? Please explain your answer.

Not to our knowledge. The right provides business with flexibility, covering shape or configuration and whole or part of an item, but not unreasonably so, there being no protection for two-dimensional designs and a requirement not to copy.

Question 6

Do you agree with the proposals to make the definition of UK unregistered right consistent with that of the UK registered design and the Community designs? Please explain your reasons.

As previously advised, the British Brands Group does not support the long term retention of the UK unregistered design right. However, if the right is to be retained, we would support its harmonisation with UK and Community registered design rights.

Question 7

If you don't agree with this approach, do you have any alternative suggestions?

As outlined above, the British Brands Group supports the introduction of more effective protection against acts of unfair competition and the broadening of the scope of protection under UK copyright law.

“Originality” and UK Unregistered Design Right

Question 8

Is the UK test for “commonplace” leading to further uncertainty in the market place or otherwise affecting innovation? Please give reasons for your answer.

While we accept that it may not be always straightforward to determine correctly what is commonplace, it should be absolutely clear whether there has been copying.

Question 9

Do you agree with the proposal to ensure that the definition of commonplace includes the European Economic Area, and is a change to Section 213(4) of the CDPA an appropriate way in which to make the change?

If UK unregistered design right is to be retained, we are not certain that this is needed. The definition of "commonplace" covers designs that have come to the attention of designers in the UK, whether those designs come from the EEA or, more to the point in the modern business environment, globally. The source should not matter.

Question 10

Are there other advantages or disadvantages of making this change?

There would be a theoretical disadvantage to UK designers of not being able to access ideas that are not commonplace in the UK but are in other parts of the EU. However we believe that, in practice, this disadvantage is negligible.

UK Unregistered Design Right and "general concepts"

Question 11

Do you agree that an amendment excluding general ideas and concepts would help to clarify the law?

If UK unregistered design right is to be retained, we consider that the law is currently clear enough, with "commonplace" considered to cover general ideas and concepts.

Question 12

If the answer to 11 above is yes, how would you make such an amendment?

We do not have any particular views on this point given our lack of support for the long term retention of the UK unregistered design right.

Question 13

What are the advantages and disadvantages of making this amendment?

If the amendment is poorly drafted, it may increase uncertainty and may lead to unnecessary litigation.

Defences against accusations of infringement

Question 14

Is the lack of a defence for someone acting in good faith using a design before it is registered by another party a problem for business? Has this had a negative consequence for your business? Please give details.

We wonder whether this lack of defence presents a problem for business. The fact that prior use would invalidate a registered right provides a strong approach and a better defence for companies than any of the 'defences' proposed. However we see merit in consistency between patents and UK and community registered design regimes.

Question 15

Does the UK unregistered design right need to allow for use of a design for "(a) acts done privately and for non-commercial purposes; (b) acts done for experimental purposes, etc" as permitted in relation to UK registered designs and the Registered Community Design? Please explain your answer.

The justification lies in the consistency this would bring across the various design regimes and for this reason we would be minded to support the amendment,

though we are concerned by the implicit endorsement of copying that this would entail.

Question 16

Are our proposals for making these changes the best way to do it? Please explain your answer.

Were UK unregistered design right to be maintained, the proposals seem appropriate but it is important to note the 'prior art' inherent in 'prior use'. Nothing in the re-drafting should prevent or jeopardise invalidity action on the basis of prior use.

Defences against accusations of infringement of artistic copyright

Question 17

Do you agree or disagree with proposals to amend section 53 of the CDPA in this way? Please explain your answer.

We would indeed agree that there should be consistency between UK and Community registered designs on the one hand and copyright law on the other, so that if permission is given to use a registered design (whether UK or Community), permission in artistic copyright would automatically follow. Consistency and predictability would be the consequent benefits.

Question 18

Are you aware of any instances of disputes arising where a defence against infringement of copyright law was not available to holders of Community Registered Designs or international registrations designating the EU? If so, please give an indication of the costs incurred with dealing with these disputes, and of their frequency.

We are not aware of instances involving our members.

Question 19

Section 53 of the CDPA references registered designs. Is there any reason why this should be extended to cover unregistered designs? Please explain your answer.

We see no reason why there should not be consistency between unregistered design protection and artistic copyright. The advantage would be consistency and simplicity and we perceive no downsides.

“Qualification” for UK unregistered design right protection

Question 20

Are you aware of any other cases in which the restriction of UK unregistered design right to habitual residents of the EU and a small number of other qualifying territories have resulted in commercial dispute or difficulty?

We are not aware of cases involving our members, although we note that excluding the US may potentially be detrimental to inward investment to the UK and therefore growth.

Question 21

Do you agree with the proposal to extend the qualification requirements for UK unregistered design to reflect those of the Community unregistered design? Please provide reasons for your answer.

As previously noted, the British Brand Group does not support long term retention of the UK unregistered design right.

However, if the right is to be retained, we support the harmonisation of the qualification requirements. Brand owners should be able to protect the designs they have paid for irrespective of the geographical origin of the designer.

Ownership of designs

Question 22

Do you agree or disagree with aligning UK law provisions on ownership of commissioned designs with EU law provisions? Please explain your answer.

The British Brands Group would reluctantly support the harmonisation of the provisions on the ownership of commissioned designs with EU law. From a brand owners' perspective, the ideal outcome is for those commissioning the design to be considered the owner. This is particularly true for SMEs who may not have access to legal advice and the need for the inclusion of assignment clauses in commission agreements.

The practicality of achieving this across Europe however is recognised as challenging. This may be an instance where the advantages of a consistent pan-European approach carry most weight, with brand owners of all sizes needing to be educated to obtain written assignments of ownership in every case.

Question 23

If you are aware of the likely costs associated with clarifying ownership of design rights as a consequence of the different approaches taken under UK and EU law, could you please give examples.

We have not been made aware of such costs from our members.

Claim to Ownership

Question 24

Do you agree or disagree with removing the requirement for the applicant to be the proprietor of the design applied for? Please explain your reasons.

We wholeheartedly support the removal of the requirement for the applicant to be the proprietor of the design applied for.

The current requirements may cause delay in obtaining a filing date of a design application whilst a brand owner awaits the execution of the corresponding assignment documents. While it is true that the applicant may benefit from unregistered design rights, it is preferable to avoid delaying the date of filing a design application, particularly if the grace period of twelve months is shortly expiring.

Question 25

Please give details of any other cases in which this requirement has had a detrimental impact.

We are not aware on any cases from our members.

Joint Proprietors

Question 26

Do you have examples of where the lack of provision for joint ownership in the RDA has caused difficulty to business? If so, can you give an estimate of the costs involved.

We have not been made aware of any examples from our members.

Question 27

Do you agree with the proposal to reproduce the joint ownership provisions from the CDPA in the RDA? Please explain your answer.

We support the proposed replacement of the joint ownership provisions of the CDPA with the provisions outlined in the RDA. This is in the interest of harmonisation between the two regimes.

Question 28

Are there any other provisions regarding ownership of registered and unregistered design which may also need to be amended? What benefits/costs may be associated with such amendments?

We do not believe there are any other provisions which may need to be amended.

Deferment of publication for design applications

Question 29

What evidence do you have of the current deferment period having disadvantages?

We have no evidence of disadvantages arising from the current deferment period.

Question 30

Do you believe that an extension of the deferment period will have benefits for business? Please explain your answer.

In principle, yes. Product development and marketing may take a long time, certainly much longer than twelve months before commercial launch, yet competitor response to innovation and new ideas can be extremely quick. There is an advantage for innovators and originators of designs to be able to keep their work under wraps for as long as possible (up to market launch), while having some certainty during the development phase that their designs will be eligible for protection.

Question 31

The options discussed include extending the deferment period to 18 or 30 months. Which option do you think best and why? Are there other more preferable options?

We would strongly support the adoption of a thirty month deferment period (see our comments above). We perceive any potential downside from longer deferment to be more than offset by a greater prospect of innovation success if innovators have greater control over when important information is made public.

Enforcement of designs and understanding the design rights of others

The need for criminal sanctions for the deliberate copying of designs

Question 32

What evidence do you have of existing civil sanctions being insufficient to deal with copying of design right?

The British Brands Group believes that the current civil remedies available to proprietors of design rights are prohibitive in dealing with a number of different types of infringement. This is most notable in cases of infringement of design rights owned by SMEs or individual designers who are prevented and/or intimidated from taking civil action due to limited financial resources.

Question 33

Do you agree with the introduction of criminal sanctions for deliberate copying of design right? What benefits will it bring to business? Please explain your answer.

We support the introduction of criminal sanctions for the deterrence this would bring to deliberate and persistent infringers of designs.

Question 34

Do you agree that any new criminal offence should only be for deliberate copying of a design right? Please explain your answer.

We agree that any new criminal offence should be in line with the trade mark and copyright regimes in relation to criminal sanctions, covering practices where the person knew or had reason to understand a registered design would be infringed, it was deliberate and it was "in the course of business".

Question 35

What evidence do you have for the costs that introduction of such sanctions will bring, including the impact on enforcement agencies? Please also comment on the assumptions about likely impacts and costs made in the Impact Assessment¹.

We are not aware of any evidence on the impact on enforcement agencies. However, there is clearly a benefit for SMEs and individual designers who cannot afford to pursue action before the civil courts.

Question 36

Do you agree that we have the ability to introduce criminal sanctions for deliberate copying of Registered Community Designs? Please explain your answer.

If this is envisaged by a reasonable interpretation of the Enforcement Directive, then yes.

Question 37

To which rights should criminal sanctions apply and why?

For reasons of consistency across copyright, trade mark and design regimes we in principle would support a criminal offence being introduced for all forms of design right, notably where the infringement is blatant, intentional and persistent.

¹ <http://www.ipo.gov.uk/consult-ia-bis0376.pdf>

Routes for appealing IPO decisions on design registrations and invalidation

Question 38

Have you experience of using the Registered Designs Appeal Tribunal? Should it continue to function as the single appeal route? Please explain your reasons.

We are not aware of any experiences on behalf of our members. However we would support a hamonisation of the appeal route with the current trade mark approach, namely before either the "Appointed Persons" or the High Court.

Question 39

What are the implications of constituting the Patents County Court as the only forum that would hear appeals against IPO design decisions?

We would be concerned that the Patents County Court, with only one full-time Judge, could develop too large a workload and become swamped, were it the only forum to hear appeals against IPO design decisions.

Question 40

What are the pros and cons of having the Appointed Persons and the PCC as the two alternative routes of appeal against IPO design decisions?

The pros would include spreading the workload and low cost. The cons would include an unsatisfied party who would have no recourse to further appeal if the Appointed Persons route is selected. There is also a potential perception that the Appointed Persons route is less litigious than a 'Court' appeal, something that may be a pro and a con, depending on the perspective adopted.

Question 41

Please supply any information about the likely costs, including of legal advice, to business of appeals going to the Patents County Court, the Registered Design Appeal Tribunal and the Appointed Person.

If this is not possible, can you please comment on:

- a the references in the Impact Assessment² to the suggestion that seeking professional/legal advice is about 50% cheaper for an appeal to the Appointed Person than it is to the Patents County Court.
- b the costs of professional advice for appeals to the Registered Designs Appeal Tribunal and how much more or less they are likely to be than the cost of appealing to the Patents County Court and than the costs of appealing to the Appointed Person.

It is the experience of our members that appeals before the "Appointed Persons" are both affordable and relatively simple. The procedure is far less complex than appeals before the High Court or the Patents County Court. Appeals before the "Appointed Persons" are heard by subject matter experts compared to the High Court where judges may have limited experience in intellectual property law. Appeals before the "Appointed Persons" can usually be managed by solicitors or trade mark attorneys rather than barristers which can increase the legal cost of such appeals. However this depends on the complexity of the appeal and the legal arguments.

² <http://www.ipso.gov.uk/consult-ia-bis0373.pdf>

Question 42

Can you please comment on the discussion in the Impact Assessment about the likely uptake of using the Appointed Person as an alternative to the Patents County Court, especially in the light of the lack of appeals in the last few years?

Given the simplicity and affordability of appeals before the "Appointed Persons" we can only assume that there would be an increase in the uptake of using this route of appeal.

Question 43

Are there other alternative scenarios we should be exploring, for example fully mirroring the trade mark route of appeal by having the High Court rather than the PCC as the alternative to the Appointed Person? Please explain your reasons.

As discussed, the British Brands Group would strongly support harmonisation of the route of appeal with the current trade mark approach and see benefit in a flexible approach, with different avenues for appeal being available depending on the nature of the case. The ability for the Patents County Court to refer complex cases to the High Court should be explicit.

Understanding other peoples rights

Question 44

What is your view of the extent to which every design on the register of designs in the UK and at the OHIM may or may not be valid?

The British Brands Group does not hold a particular view on the validity of the designs on the UK and Community design registers but it is clear that, without substantive examination, inappropriate designs will get through to the register. However we do believe there are sufficient procedures in place to challenge the validity of a particular design if necessary.

Question 45

Do you think that designs registered by the IPO have a reduced perception of "value" because they have not been assessed against the prior art? Please explain your answer.

We do not share this view given Community registered designs are also not assessed against prior art.

Question 46

Does the "deposit" system for designs operated by the IPO cause other difficulties?

Effective search of the system is a recurring difficulty. A better search facility allowing for the search of the design shape rather than just the product type would allow for more effective assessment of any prior rights, though of course this would not help ascertain validity.

Question 47

Would you be in favour of the IPO re-introducing prior art examination as part of its design process, and if so how? Please explain your answer. What in your view would be the costs and benefits of doing this? How much would you be prepared to pay for an official search for prior registered designs?

The British Brands Group could not support the re-introduction of prior art examination for UK registered designs by the IPO without OHIM introducing similar examination protocols for Community registered designs. If the IPO were to proceed with the re-introduction of prior art examination without OHIM following suit then we would expect to see a significant decline of UK registered design applications in favour of Community registered designs.

Question 48

Do you have any experience of legal disputes where questions about the validity of the design in question have been central, and would a compulsory examination of national registered designs against prior art have helped resolve those disputes more quickly and cheaply?

It is the experience of our members that the validity of design rights are challenged in the majority of conflicts. Unfortunately we do not believe that prior art searches conducted by the IPO would prevent such challenges given the worldwide novelty requirement.

Question 49

How do you think the IPO should go about seeking to educate design applicants regarding the limited nature of the examination it carries out? Could highlighting the non-statutory and optional prior art search be an option? Please explain your answer.

We fully support the IPO educating design applicants on the limitations of their registered design rights and the potential invalidity of a design based on prior art. However, we believe promoting the optional prior art search would create a sense of false security given the search is not an absolute. We would support the OHIM approach being investigated.

A Designs Opinion Service

Question 50

Is the cost, time and lack of certainty in IP disputes a barrier to maximising the benefit of IP? Please explain your answer, and supply any supporting evidence.

Reforms of the Patent County Court have assisted but legal disputes of any kind involve uncertainty and this will always be the case. We do not believe that the cost, time and lack of certainty in disputes present a barrier to maximising the benefit of IP. Instead it simply discourages designers from applying for registered design rights or enforcing their unregistered design rights.

Question 51

Do you think that the IPO offering opinions in relation to:

- a. UK registered designs;
- b. UK unregistered designs; or
- c. both would be useful to business? Please explain your answer

We do believe there is a benefit in the IPO offering opinions, particularly for disputes between individual designers and SMEs who have limited resources. However, we believe such opinions would likely be challenged or simply ignored in disputes involving larger corporations who have access to specialist legal counsel.

We question the practicalities of providing opinions in relation to UK unregistered

designs. The IPO would need the expertise of a "skilled man " to be able to assess whether or not a design was "commonplace" in a wide diversity of design fields.

We understand Judge Birss in the Patents County Court may give an interim non-binding view of a case, an approach which is also useful.

Question 52

Are there other things that the IPO should do to improve the Alternative Dispute Resolution or mediation options³ available to business in relation to registered and unregistered design?

We do not have a particular view on this matter.

Question 53

Would the £200 fee to seek an opinion be a barrier to use? If so, what would be appropriate? Please explain your answer.

We would not expect the £200 fee to present a barrier, whatever the size of entity.

Question 54

Are there ways in which any designs opinion service could be set up so as to increase its use to business?

We expect most uptake to be from SMEs so as simple and straightforward an approach as possible would be the optimum approach.

Question 55

What are your views on offering a review/appeal mechanism and how it should be set up?

Again, the more straightforward and simple the approach, the better.

Question 56

To help build the evidence on the costs and benefits it would be helpful if you could provide estimates for or otherwise comment on:

- a. The likely costs arising for those making observations in response to a request for an opinion
- b. The number of opinions requested
- c. The likely savings for those avoiding litigation as a result of an opinion (given under option 2 or option 3 in the Impact Assessment⁴)
- d. How many hearings at the IPO are likely to be avoided because an opinion has been sought instead
- e. Whether there is likely to be any difference in levels of complexity of cases or the number of cases between option 2 and option 3 in the Impact Assessment?

It is difficult to answer this question with any degree of certainty. We suspect that take-up will be low, even if the service is cheap. Savings are likely to be significant in comparison to court litigation. We also suspect that not many hearings will be avoided in practice.

³ A 'Call for Evidence' relating to the IPO's mediation service was launched on 12 June 2012. See <http://www.ipo.gov.uk/c4e-mediation.pdf>

⁴ <http://www.ipo.gov.uk/consult-ia-bis0350.pdf>

Inspection of Documents

Question 57

Would a system allowing the viewing online of documents relating to designs be of benefit? Please explain your answer.

Yes, the online viewing of every document would be valuable. The availability of OHIM's files online is already helpful.

Question 58

Are you aware of the current system by which information can be viewed in person, or by receiving copies of the information by post? Have you made use of this system? Is the cost of the system or the delay in receiving the documentation a disincentive to using it?

We have not been made aware of the experiences of our members in using the current system or if they have used the system at all. It is likely they would have used their UK legal counsel to access such documentation on their behalf. Cost would not normally be an issue but delay in receiving information could be.

Question 59

What would be the saving to you (monetary, time and resources) if an online service was provided?

It is difficult for our members to calculate the monetary and resource savings but there is clearly a benefit in time given the accessibility of online services.

Increasing information on registered designs

Question 60

Would the provision of the information referred to in paragraph 15.2 be of benefit to third parties in e.g. helping to avoid or resolve dispute or facilitate business? Please explain your answer.

There would potentially be a benefit in third parties having access to the name of the designer, the start of the "period of grace" and whether the proprietor would be willing to licence the design right (the first two in particular helping avoid disputes). The ability to search by designer and/or date of marketing would also be beneficial.

However we would strongly recommend against making this information mandatory, given our comments in Question 63.

Question 61

Would the provision of this information on the application form cause any problems for applicants? Please explain your answer.

The provision of this information would be an additional onus on business but there would also be accompanying savings if disputes are avoided and benefits if designs may be fully exploited.

Question 62

Is there other information that could be provided on the form, to help avoid or resolve disputes or facilitate business?

We have no recommendation for further information to be provided.

Question 63

If you are in favour of including this information on the form, should it be mandatory or optional to provide it? Please provide reasons.

The information must be optional as failure to provide the information should not be considered a basis to refuse an application.

The making of the referred information mandatory would cause significant problems for the proprietor if the information is not readily to hand, particularly for larger corporations. It may also cause a delay in the filing of an application or the loss of an application if the information is not readily known and the grace period is about to expire.

From our members' experience it is not always clear who the designer of a specific design is, particularly if the design has been created during a collaboration of different designers or design agencies. Usually commissioned designs will be automatically assigned as part of an existing employment or engagement agreement and therefore it is not currently necessary to keep records on who collaborated on a given design.

Secondly, it is not always possible to ascertain the specific date when a design was first made public. The proprietor may only know a specific month or a date range of several days. As the UK registered design regime requires worldwide novelty it is possible that a design may be made public by a local subsidiary a month before another local subsidiary and without the knowledge of the broader business.

Question 64

If the three additional questions were not mandatory would you be likely to include the information? If not, why not?

Companies would be likely to fill in the information where they perceive a benefit to them in doing so. A benefit may include the expectation that competitors would also include the information.

Simplifying requirements to record changes in ownership

Question 65

Do you agree or disagree with proposals to delete section 19(3A) of the RDA? Please explain your answer.

We agree with the proposal to delete the section but suggest that a box is added to the form to make it clear whether the UK unregistered design right has also been assigned.

Question 66

If possible, please give estimates of costs incurred in providing information currently required by the IPO to update ownership details on the register, or costs incurred by third parties seeking to trace any subsequent owner, where details on the register were not up to date.

We are not aware of the costs incurred in providing the required information.

Other things we might do to improve the Design IP framework

The Hague Agreement

Question 67

Do you see an advantage in the UK joining the Hague system, and if so what is it?

We see an advantage in joining the Hague system as this will bring business the greatest flexibility and present the greatest number of options, particularly for SMEs and individual designers where the Hague system can be more affordable.

Question 68

Do you think that having the option of both registration in a selection of countries including the UK individually as well as the whole of the EU, would be useful to business? Please explain your answer.

It would be useful to business to have the widest range of options available to it.

Question 69

How many hours do you spend: Renewing a UK design registration where there is a corresponding Hague registration designating the EU? Making changes to a UK design registration where there is a corresponding Hague design registration designating the EU? What level/grade of staff conducts this work?

We are not aware of the hours spent by our members.

Question 70

If there was the option of designating the UK as part of the Hague registration, would you have done this or would you have still applied in the UK?

This would depend on a number of factors and our members' individual brand protection strategies.

Question 71

Do you register your designs outside the UK? If yes, do you do this through the international Hague registration system, or by applying separately in each country

This would again depend on our members and their individual brand protection strategies.

Question 72

If you could include the UK in an application through the international Hague registration system, would you be more likely to register your designs overseas?

We are not aware of the impact on our members' brand protection strategies were the UK were to join the Hague system. However we believe we would likely see an increase in overseas design applications through the Hague system.

Use of directions to enable speedier future reform

Question 73

Do you think it appropriate that there is a power for the Registrar of Designs to be able to issue directions in relation to designated matters under the RDA? Please explain your answer.

It would be appropriate for the Registrar of Designs to have similar powers as the Comptroller of Patents and the Registrar of Trade Marks in order to generate further harmonisation between the various IP regimes.

Question 74

Please supply any further comments/suggestions you may have on how we can improve the UK designs framework, including any supporting cost/benefits analysis.

The British Brand Group has no further comments.

Question 75

Please also add comments on any of the Impact Assessments available at <http://www.ipa.gov.uk/consult-2012-designs>. Comments on the given estimates of costs and benefits are particularly welcome.

The British Brand Group has no further comments.