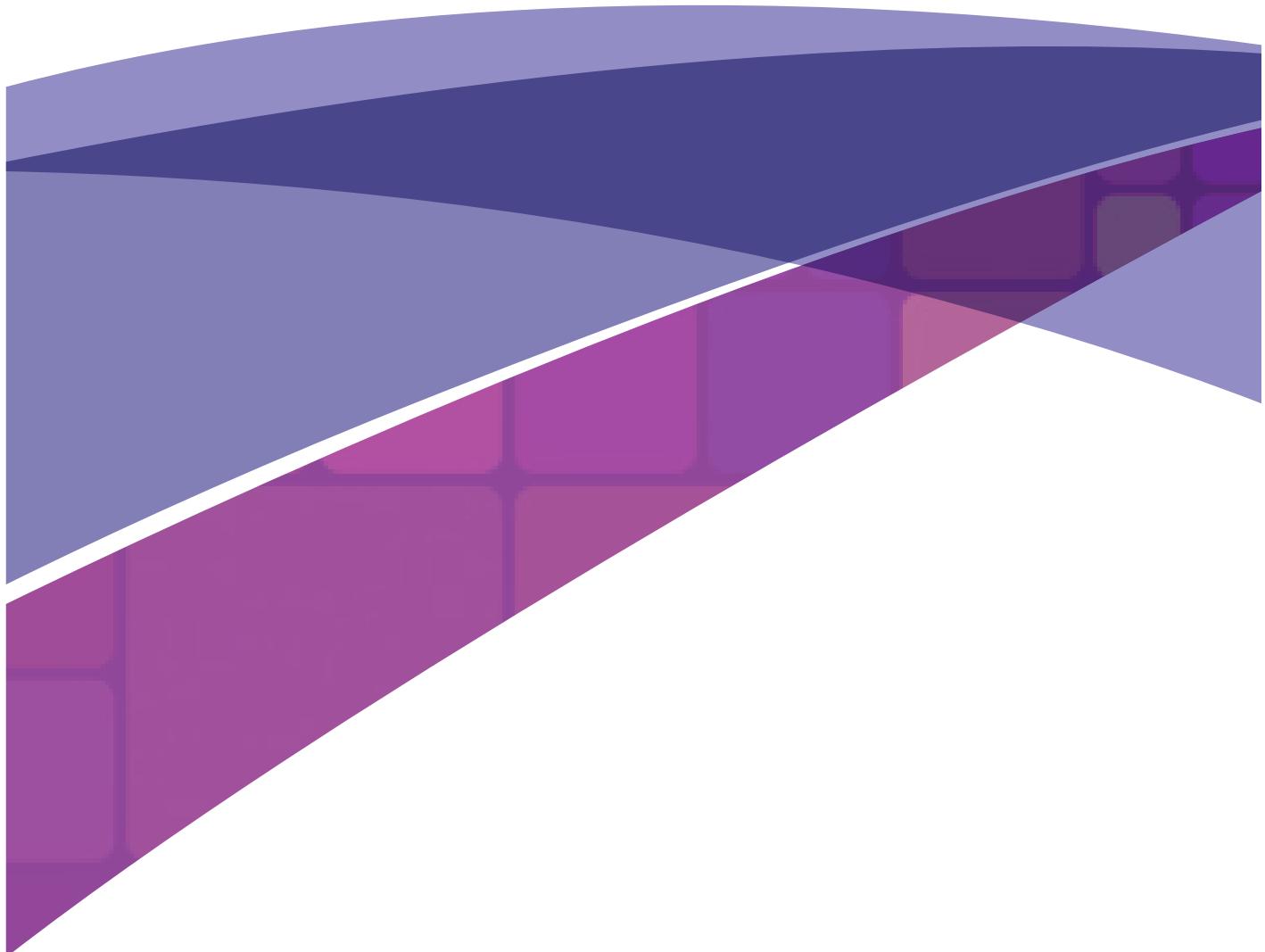




Intellectual
Property
Office

Proposal for changes to Registered Design Fees

Government Response



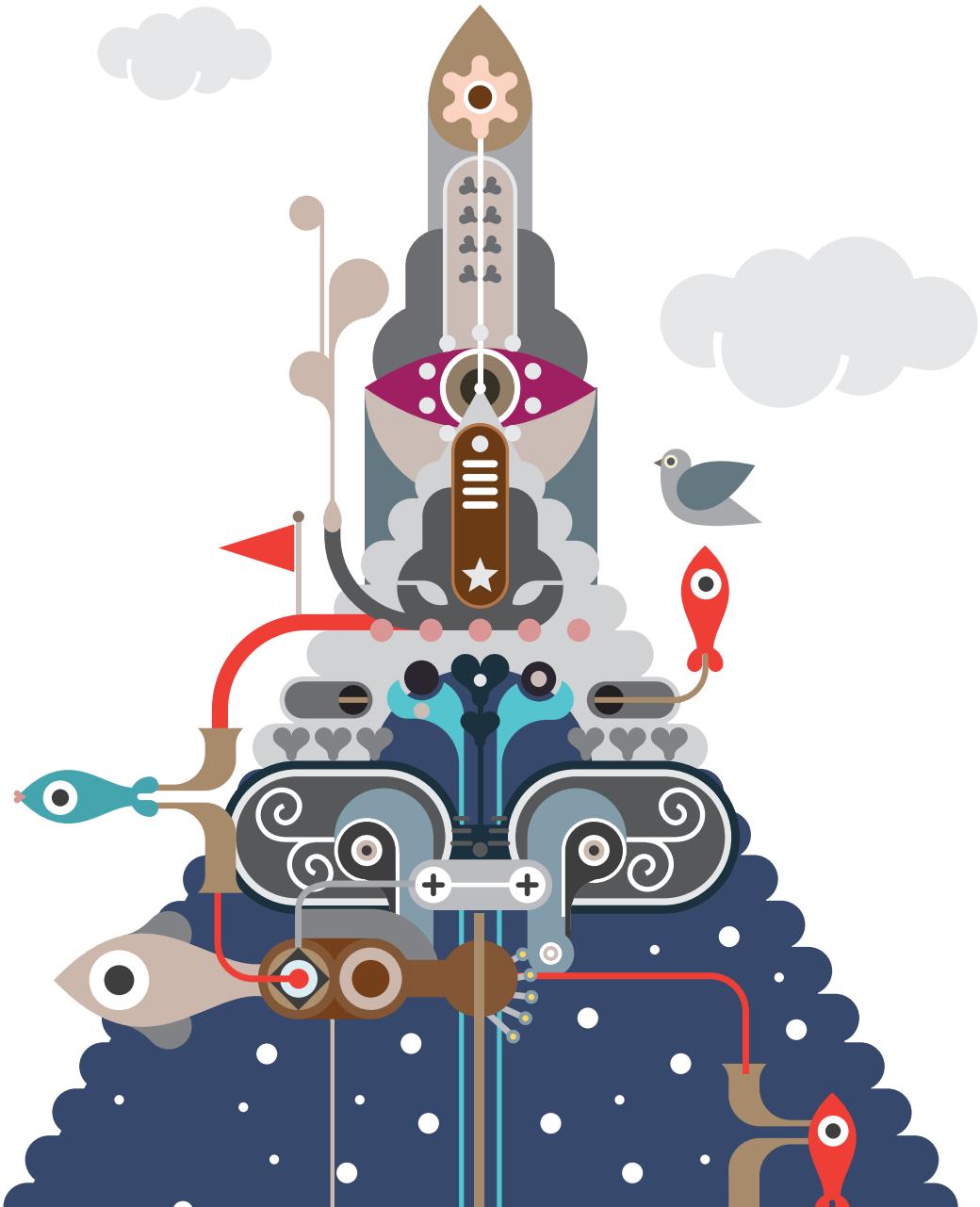


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Be Original, Be Creative, Be Protected

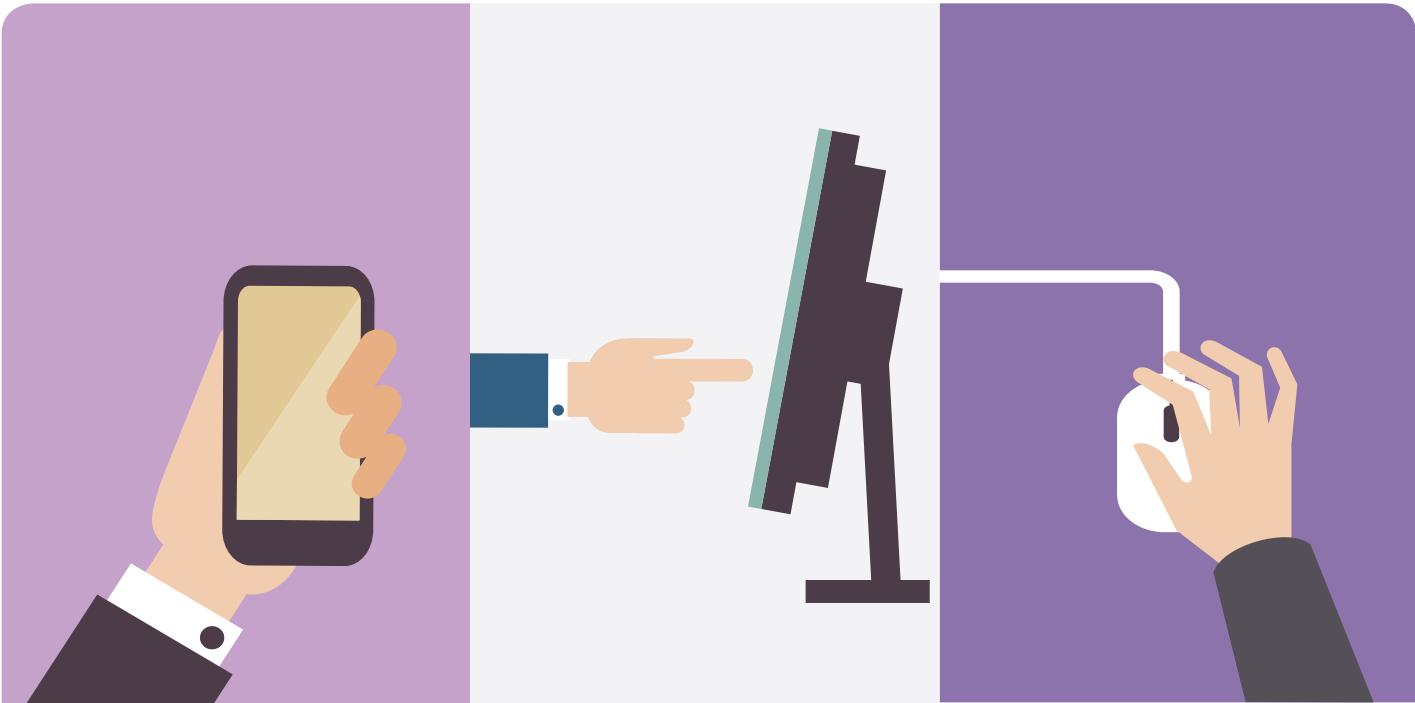
Want to find out more or be involved?

Designers Helping Creatives know their rights, protect and champion their products. Part of @The_IPO



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Ministerial foreword



As Minister for Intellectual Property, I know how much design matters. Design is a significant contributor to the UK economy, supporting quality jobs and services and providing consumers with innovative and attractive products. This contribution is growing. The Gross Value Added of the

design sector increased by 16.6% between 2013 and 2014 – the largest increase of all the creative industries, and higher than the 4.6% increase seen in the UK economy as a whole.¹

The UK is home to some of the world's best designers and design-led businesses, which is why it is so important that the systems that designers use are accessible and relevant to their needs. I am pleased that improvements have been made to the legal framework and to the services the Intellectual Property Office offers, and that these have been based on extensive engagement with designers and their advisers.

Today, businesses and citizens expect to be able to apply for government services online. Processing costs will be lower with a digital designs system, and it is only right that those savings are passed on to customers.

In the recent consultation, the government sought views on changes to registered design fees, and I am pleased to announce that there was strong support for the proposal.

Respondents agreed that the proposed changes to the fees for registered design, along with the newly digitised system, provide designers with an easier and more cost-effective way of protecting their designs in the UK.

I am pleased that our designers will be able to take advantage of the new fees and that creative design-led businesses will benefit from the significant savings available.

A handwritten signature in black ink that reads "Lucy Neville-Rolfe".

Baroness Neville-Rolfe, DBE, CMG
Minister for Intellectual Property

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¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/494927/Creative_Industries_Economic_Estimates_-_January_2016.pdf

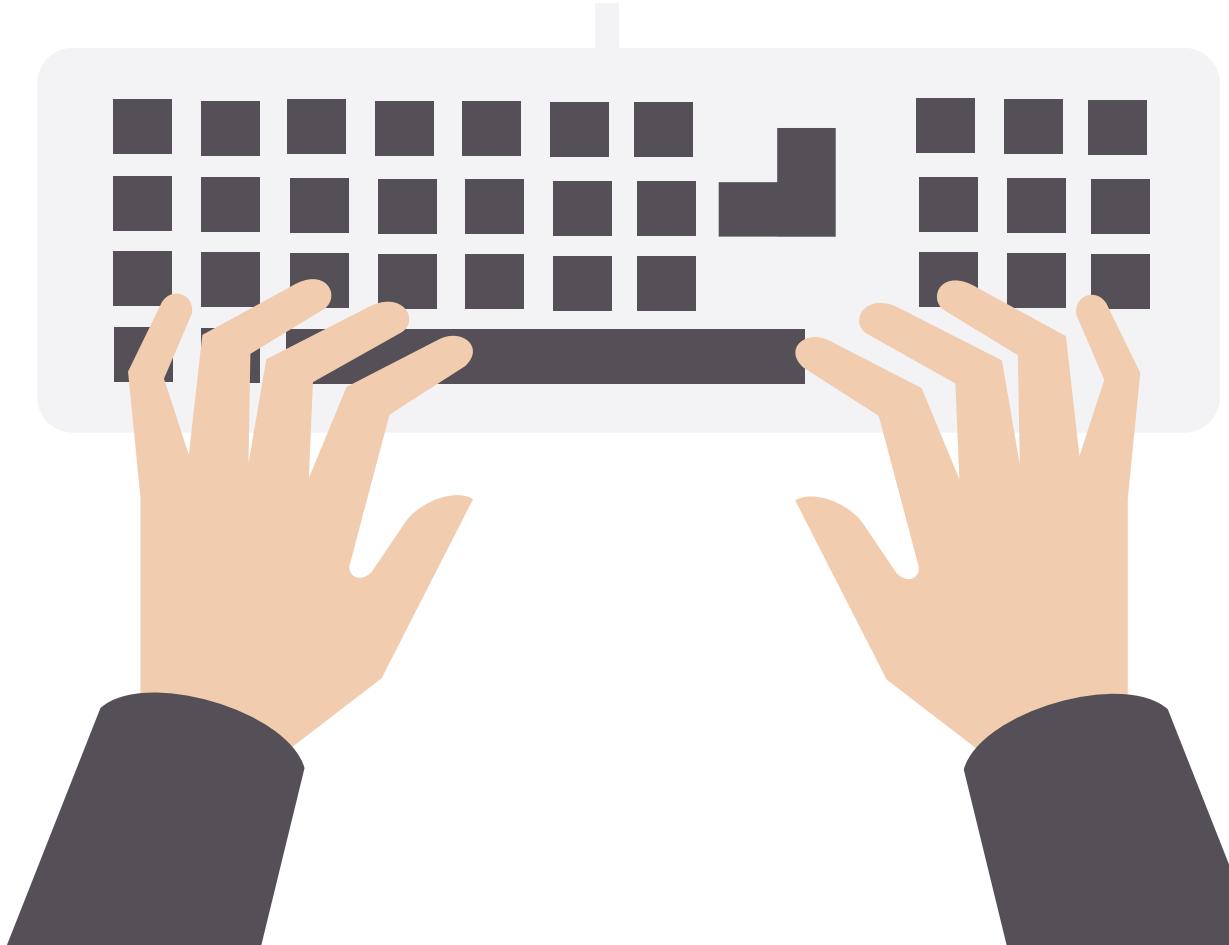
Executive Summary

The government published a consultation on 7 January 2016, seeking views on the proposal for changing registered design fees. The consultation closed on 29 January 2016.

16 responses to the consultation were received, including responses from registered design and other IP owners, lawyers, company and industry representatives and other users of the registered designs system. All written responses were supportive of the proposed fee changes, and the anonymous online survey garnered an approval rate of 73%. Therefore the government will now proceed to implementation of the proposals.

This document summarises the replies received, and outlines the government's next steps.

“All written responses were supportive of the proposed fee changes, and the anonymous online survey garnered an approval rate of 73%.”



Introduction

The government made a manifesto commitment to help businesses create jobs by making the UK the best place in Europe to innovate, patent new ideas and set up and expand a business. Intellectual property rights (IPRs) exist to promote innovation, which leads to the creation of new products and services, and to better methods of production. Economies that are more innovative have higher productivity – a key driver for growth.

Design is hugely important to the UK economy. Recent figures published by the Design Council show that in 2013 the design economy generated £71.7bn in gross value added (GVA), which is 7.2% of total GVA. Design industry turnover increased by 19.7% between 2009 and 2013 and design-influenced exports grew by 51.4%. On an individual firm level, the productivity of businesses that invest in design and use it strategically is higher than average for their sector.² By giving businesses exclusive rights to their design, registered design rights help encourage business creativity, drive investment in new products and innovation, and sustain growth.

An accessible legal framework for designs is therefore an important part of the IP system. As Ian Hargreaves highlighted in his 2011 review, this framework needs to be adaptable to a changing world, particularly to reflect

the growing use of digital technologies. The review also stressed that much more needed to be done to understand the role of the IP system in supporting the design industry.³

Following the publication of the Hargreaves Review, the Intellectual Property Office (IPO) commissioned a number of research reports on the design industry. The government also consulted extensively with the design community on how to improve the system so that it more effectively meets the needs of the designers now and in the future.

In response, the UK 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 expected improvements and efficiencies gained by implementation of the new digital registration service, our costs will be reduced. We consulted on how to pass on these reductions to our customers through the fees charged for using the registered design service.

² Design Council (2015), The Design Economy. The value of design to the UK.

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32563/preview-finalreport.pdf

Proposal

The current fees for registered designs were last amended in 2006 and are based on the use of the current paper-based processing system. The IPO is now digitising the registered design process, which will mean our processing costs will be reduced. The proposed fee changes ensure that we pass on those savings to our customers.

The consultation also took into consideration what the government has been told by designers about the effect of the current fee structure. Designers often want to register their designs but find the application fees prohibitively expensive. UK registered design fees are currently uncompetitive compared with those charged for Registered Community Designs. This means that designers may be put off applying for a UK registered design, and instead seek EU-wide protection unnecessarily.

The proposed fee model allows the government to promote access to designs at a low upfront cost, by recouping the costs of these services through renewal fees over the lifetime of the registered design right.

This will allow innovative business to protect their early investment in ideas at the outset.

The increasing cost of renewal fees, for each 5 year period, will encourage designers to think carefully about whether they need to renew their design or not. If not, they can allow their design registration to lapse, and so the design will become free for other companies to use, allowing them to build on the work of earlier designers. If renewal fees are set too low, designers can be tempted to renew unused and uneconomical designs, cluttering the register and acting as a barrier to the potential for further innovation and growth.

The proposed fees for multiple online applications also provide designers with a cost-effective way of registering and protecting numerous designs in the UK.

“The IPO is now digitising the registered design process, which will mean our processing costs will be reduced.”



Online services

- The cost of a single online application will be £50
- Multiple online designs will cost £70 for up to 10 designs
- To introduce a fee of £20 for every 10 online thereafter (i.e. 11-20)
- No reduction for deferred publication

Paper-based services

- The current fee of £60 for 1 design will remain
- For multiple applications the fee of £60 for 1st plus £40 for each design thereafter will remain.
- No additional discounts for multiple paper filed applications will be offered
- No reduction for deferred publication

Renewals

- A significant reduction in fees for the 4 renewal periods
 - First renewal will be £70
 - Second renewal will be £90
 - Third renewal will be £110
 - Fourth renewal will be £140

Application for a declaration of invalidity

- Reduction in the cost for applying for a declaration of invalidity to £48

A request for information

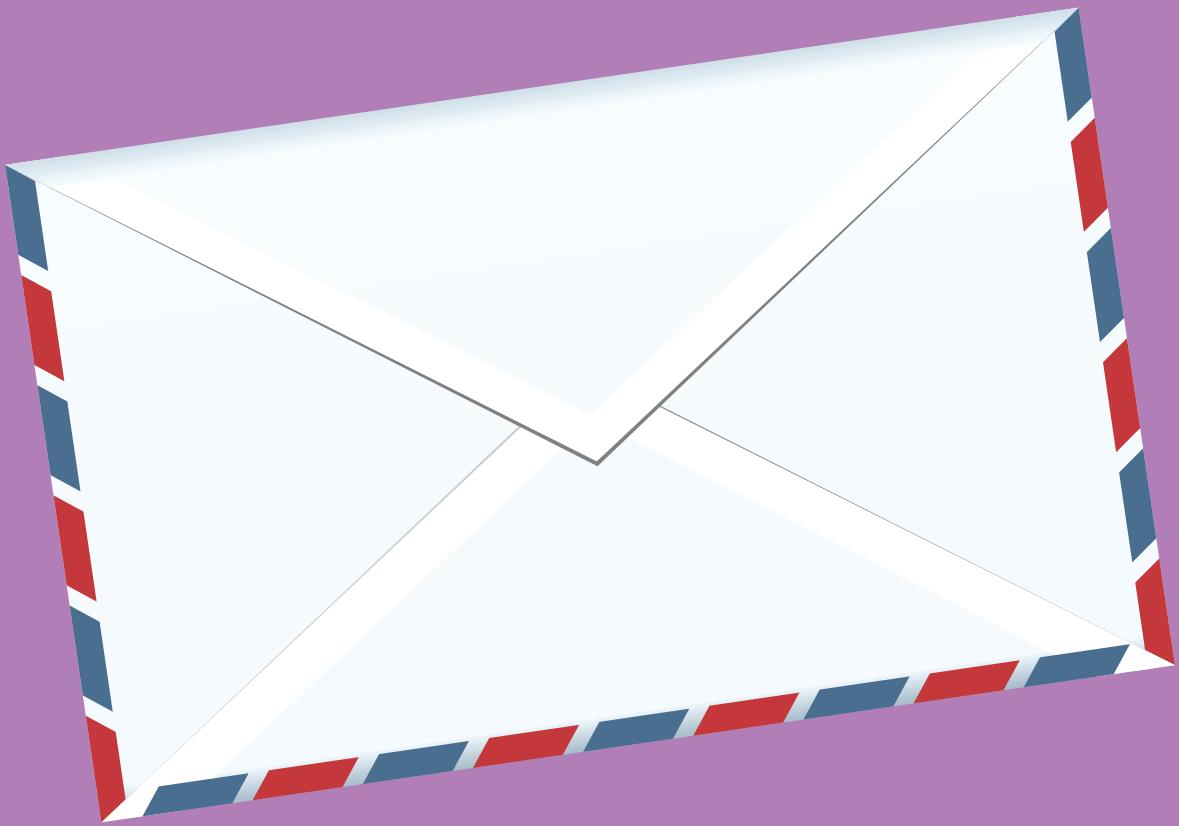
- Reduction in the cost for applying for a request for information to £24

Deferred Publication

- Retain the current fee for deferring publication of £40 per design

Certified Office Copies

- Increase the cost for providing ‘certified office copies’ to £30



Responses

Responses

The government received 16 responses to the consultation, including responses from lawyers, company and industry representatives, business, designers and other users of the registered design system. Some respondents answered the specific questions whereas others responded to the proposal as a whole.

We asked interested parties the following questions:

1

Do you have any comments on the proposed changes? Please detail the reasons behind your view, providing evidence if possible.

2

If you do currently register your designs, would you consider registering them in the UK as a result of the proposed fee changes?

3

Would you consider registering more design in the UK as a result of the proposed fee changes? If so, how many?

4

Would you be more likely to renew your design as a result of the proposed fee changes?

In addition to the 16 individual consultation responses, the government also received 35 responses to an online survey. The survey asked three questions to gauge if respondents agreed with the potential benefits to users:

1. The cost of a single online application will be £50 instead of £60. Do you agree with this change?
2. The cost for an online application containing up to 10 designs will be £70 instead of £420. Do you agree with this change?
3. The total renewal fees (for 25 years of right) for a design filed online will be £410 instead of £1100. Do you agree with this change?

The government is grateful to all who contributed to the consultation. This document is a summary of all responses received, and sets out the government's overall conclusion.



Summary of Responses

Summary of Responses

1

Do you have any comments on the proposed changes? (Also includes general comments made.)

All respondents expressed support for the proposals - some very strongly. In general, most commented that they saw the benefit of fee changes in terms of access to easier and cheaper protection for their designs in the UK. SMEs and individual designers were particularly supportive of the fee reductions.

The majority of SMEs and private applicants commented that the cost of fees, particularly renewal fees, has been a significant barrier to registering and protecting their designs. One respondent commented that this had been a barrier to moving their business forward, while another was pleased to see government support for the SME sector, which in their view has the most potential to fuel economic growth. A representative body commented that the proposals will make design registration easier and more cost effective for the majority of designers that are microbusinesses and SMEs. One respondent commented that the lack of online filing at the IPO was a significant factor in driving its choice to use Registered Community Designs, as OHIM has an online service.

One respondent commented that a benefit of more designs being registered will be that the registry will be more comprehensive. This will allow designers looking to register their designs to check the register before submitting their application. One business commented that encouraging designers to register their designs brings greater certainty for third parties rather than relying on unregistered rights.

The majority of respondents supported the increase in the number of designs available in the application fee (up to 10). A representative body commented that multi-design applications will encourage both individuals and companies who currently do not use the system to do so. In particular, one respondent highlighted that the new multiple designs fee will make it cost effective to register different features and parts of their designs, thus maximising their protection.

One representative body commented that retention of the paper-based application process is needed for clients that are not online and mitigates for IT failures.

2

If you do currently register your designs, would you consider registering them in the UK as a result of the proposed fee changes?

Some legal respondents commented that their standard practice is to advise clients to file Registered Community Designs (RCD) over UK registered designs, and that they did not see that changing as a result of the fee changes proposed. However one business commented that, while they currently chose protection offered by RCD, a supplementary, multiple UK application could provide cost effective UK protection for 'low-priority' designs. One representative body commented that cost is a factor and, as a result of the proposed fee changes, some clients may consider registering designs where they may not previously have done so.

One respondent commented that registration in the UK for priority date is considered an unnecessary expense if the client expected to trade in the EU. However, if a designer chooses not to be represented the cost is significantly reduced.

Three SMEs and private applicants considered that they would register their designs if it were easier and cheaper, while one private applicant commented that the application fee was still too high. One SME commented that for small items the RCD fee is disproportionate so it would make commercial sense to register these items in the UK and suggested that, with the lower fees, they would probably register ‘hundreds’. One representative body suggested that, for industries where multiple registrations are created but only used for 1-2 years, designers will be much more likely to register their whole collections under the new proposals.

3

Would you consider registering more design in the UK as a result of the proposed fee changes? If so, how many?

The majority of respondents confirmed their intention to register more designs as a result of the proposed fee changes, though it was difficult to predict how many. Suggestions ranged from the tens to the hundreds, with one respondent commenting that the cost of the increase in registrations will be balanced by the saving made by the lower fees.

One representative body commented that the new fees would encourage existing registrants to protect different features and parts of the designs to maximise protection.

4

Would you be more likely to renew your design as a result of the proposed fee changes?

One respondent suggested that the reduction in renewal fees could actually have a negative behavioural impact in lowering the incentive to allow unused registered design to lapse. The change was welcomed by the majority, though whether it would impact on renewal behaviours at all was questioned. The overwhelming feeling with regard to question four was that decisions on design right renewal is driven not by renewal fees, but by whether the design remained commercially valuable at the renewal date. Most respondents did however agree that cost of renewal is a relevant factor in the decision to renew, and that a reduction in cost would undoubtedly have a positive benefit in that regard.

Online survey

The online survey was anonymous. Of the 35 respondents, 71% answered ‘Yes’ to Question 1, 80% answered ‘Yes’ to Question 2, and 69% answered ‘Yes’ to Question 3.

The survey also provided for free text comments to enable survey participants to elaborate on the reasons for their answers.

On Question 1, most respondents agreed that the reduction was reasonable and would save money. Out of those who did not agree, one felt that a reduction of only £10 was not worth the administrative burden of making the change; one commented that they did not believe a change in the filing fee would encourage more designers to register their designs; and four felt that £50 was still too costly.

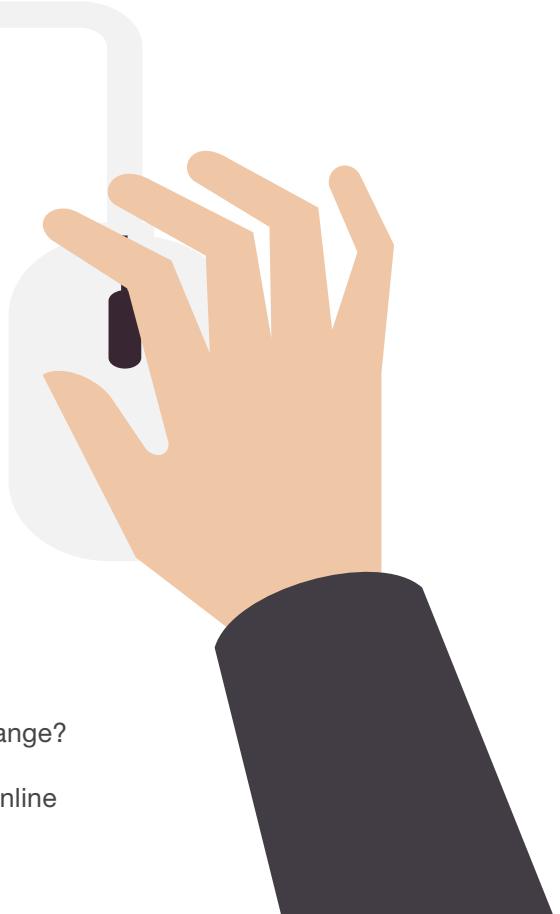
On Question 2, most respondents agreed that this reduction would make a difference to an otherwise prohibitive cost, particularly to individual designers. Of those who disagreed, most thought it was still not cheap enough, whilst one felt that the proposed fee was now too cheap.

On Question 3, the comment boxes showed some agreement between those answering ‘yes’ and those answering ‘no’, with respondents from both sides stating that the overall cost was still too high. Some felt that lower renewal fees would encourage renewal of out-of-use designs, whilst the majority felt that the cost was reasonable.

“On Question 1, most respondents agreed that the reduction was reasonable and would save money.”

Questions Recap:

1. The cost of a single online application will be £50 instead of £60. Do you agree with this change?
2. The cost for an online application containing up to 10 designs will be £70 instead of £420. Do you agree with this change?
3. The total renewal fees (for 25 years of right) for a design filed online will be £410 instead of £1100. Do you agree with this change?



Conclusion

The government welcomes the time that respondents took to participate in this consultation.

The proposals were strongly supported, with near-unanimous approval from the consultation responses and a 73% approval rating in the anonymous online survey.

The government will therefore take steps to amend the relevant UK designs legislation at the next suitable opportunity so as to change the fees as set out in the table on page 5 above.

Having decided to proceed with the proposed changes, the government will also publish a regulatory impact assessment and guidance to business in due course.

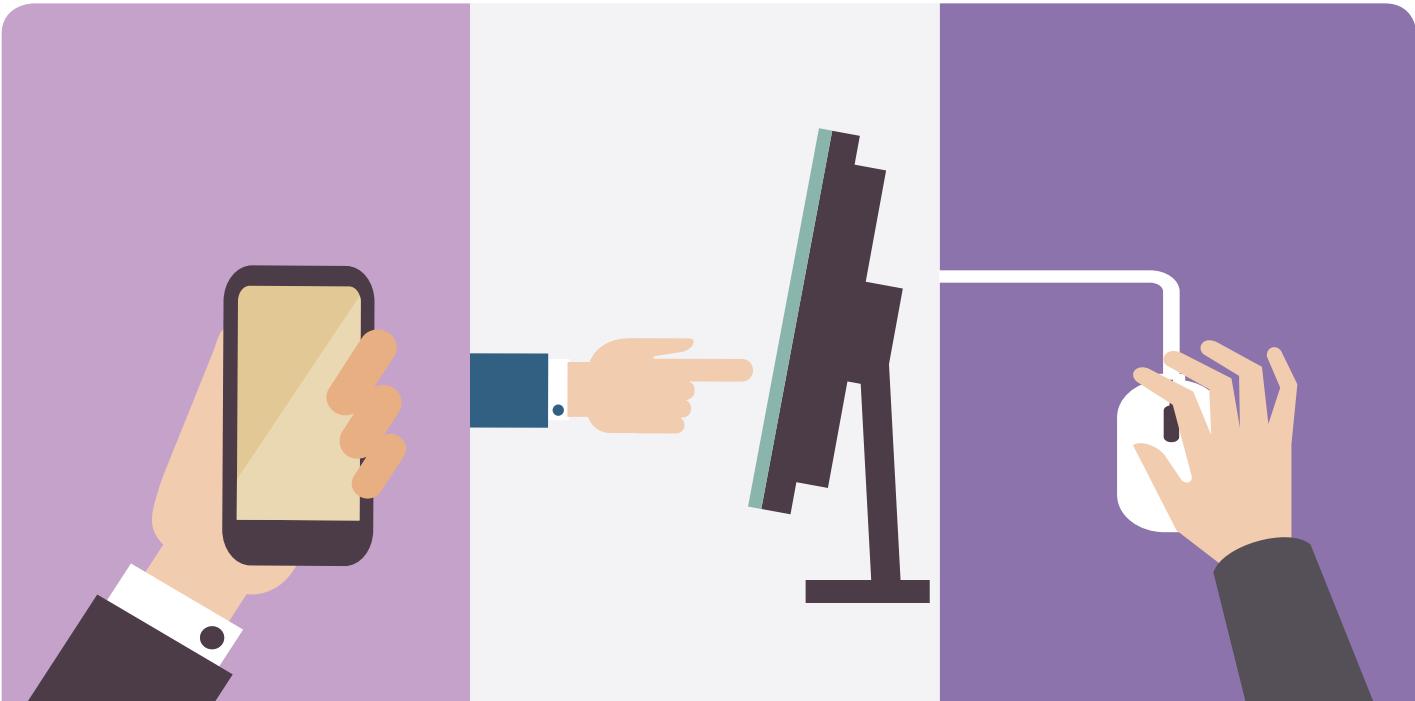
“ The proposals were strongly supported, with near-unanimous approval from the consultation responses and a 73% approval rating in the anonymous online survey.”



Annex A: List of respondents

Responses to the consultation on proposal for changes in Registered Design Fees

- Mayfin IP Ltd
- Franks & Co Ltd
- CCA Research Ltd
- Simon Denvers
- Kay Steele
- Syri Ltd (B & S Group)
- Atomic Tops
- Neptune
- ITMA
- Dyson
- ACID
- IP Federation
- Licensing Executives Society (Britain and Ireland)
- Wynne-Jones IP
- Design Council
- CIPA



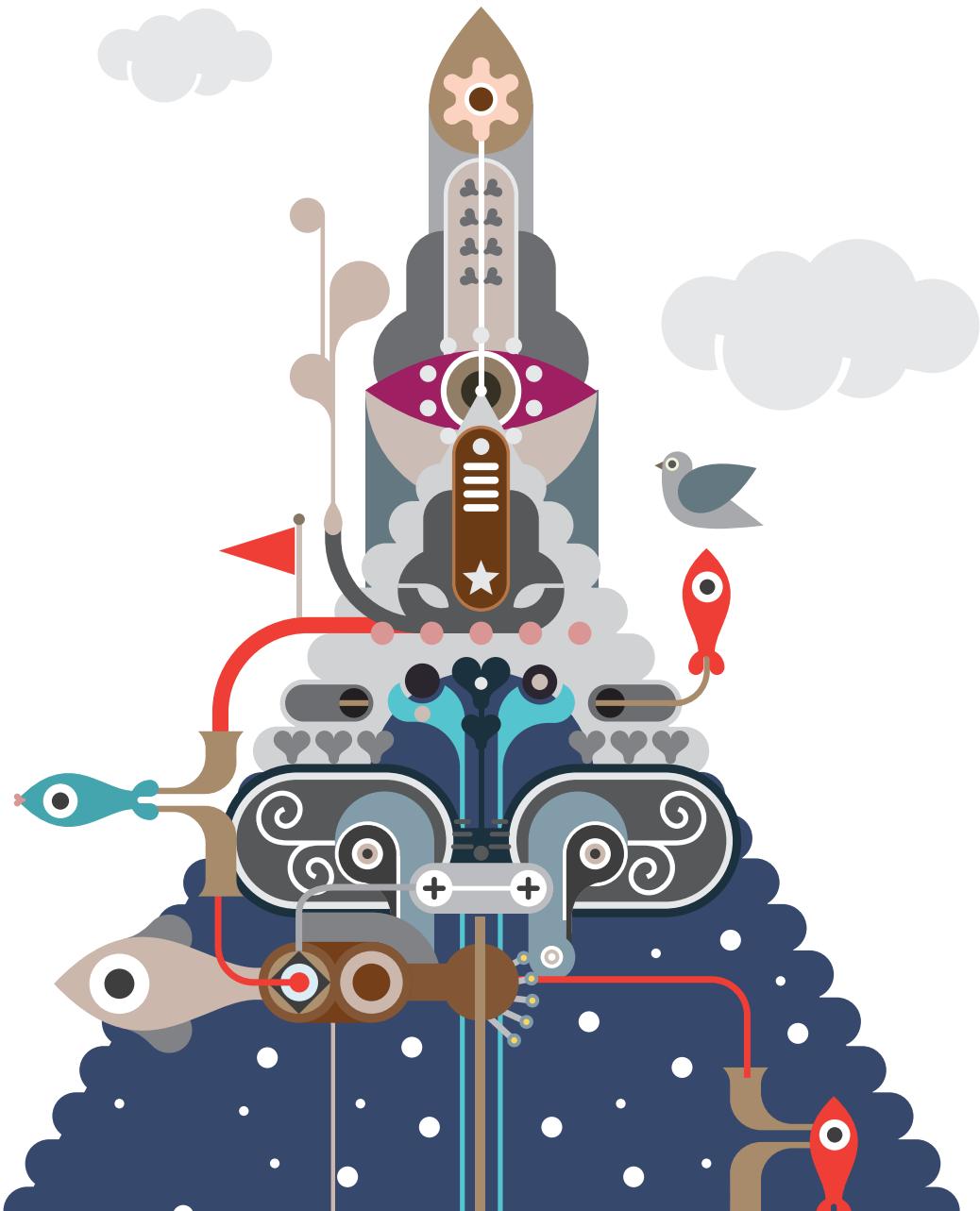


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