

Regulator Performance Framework 2019-20 Self-Assessment

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Contents

Introduction.....	2
The Regulator Performance Framework	2
The role of IP Australia	2
Our stakeholders	2
Self-Assessment.....	3



Introduction

This report sets out IP Australia's 2019-20 self-assessment against the Regulator Performance Framework (the Framework).

The Regulator Performance Framework

The Framework was established by the Australian Government to reduce unnecessary or inefficient regulation imposed on individuals, business and community organisations.

Given the circumstances of regulators vary widely, the Framework provides a standardised set of key performance indicators (KPIs) that aim to encourage regulators to undertake their functions with the lowest level of impact on their customers in order to achieve their regulatory objectives and to affect positive ongoing and lasting cultural change in Australia.

There are six KPIs that regulators self-assess their performance against under the Framework, including:

1. regulators do not unnecessarily impede the efficient operation of regulated entities.
2. communication with regulated entities is clear, targeted and effective.
3. actions undertaken by regulators are proportionate to the risk being managed.
4. compliance and monitoring approaches are streamlined and coordinated.
5. regulators are open and transparent in their dealings with regulated entities.
6. regulators actively contribute to the continuous improvement of regulatory frameworks.

All regulators subject to the framework must self-assess their performance once every 12 months. This report covers IP Australia's self-assessment for the 2019-20 financial year.

The role of IP Australia

IP Australia is responsible for administering Australia's IP rights system, specifically patents, trade marks, designs and plant breeder's rights. This includes the processing of applications, maintaining IP rights registers, conducting hearings and resolving disputed matters related to IP rights and regulating the IP attorney profession.

IP Australia is also responsible for educating and raising awareness on the role of IP rights and providing advice to Government on the development of IP policy and international engagement to support the global IP system for the benefit of Australians.

Our stakeholders

IP Australia's customers are individuals and business in Australia and overseas. Key stakeholders include IP professionals, representative bodies, international counterparts and other government agencies.

For the purposes of validating IP Australia's self-assessment against the Framework, key stakeholders include representatives from the following organisations, who sit on the Intellectual Property Stakeholder Forum:

- Australian Chamber of Commerce and Industry (ACCI)
- Australian Federation of Intellectual Property Attorneys (FICPI Australia)
- Australian Industry Group (AIG)
- Institute of Patent and Trade Mark Attorneys of Australia (IPTA)
- International Association for the Protection of Intellectual Property (AIPPI)
- Law Council of Australia IP Committee
- Licensing Executives Society of Australia and New Zealand (LESANZ)
- Knowledge Commercialisation Australasia (KCA)
- Universities Australia.

Self-Assessment

The following table outlines IP Australia's self-assessment against the Framework, highlighting key activities and outcomes over the 2019-20 financial year.

Regulator Performance Framework KPI	Regulator Performance Framework Performance Measures	2019-20 Results
<p>Regulators do not unnecessarily impede the efficient operation of regulated entities.</p>	<ul style="list-style-type: none"> Regulators demonstrate an understanding of the operating environment of the industry or organisation, or the circumstances of individuals and the current and emerging issues that affect the sector. Regulators take actions to minimise the potential for unintended negative impacts of regulatory activities on regulated entities or affected supplier industries and supply chains. Regulators implement continuous improvement strategies to reduce the costs of compliance for those they regulate. 	<p>Customer Service Charter</p> <p>IP Australia's Customer Service Charter (CSC) is the key mechanism that outlines and measures performance against the expectations of our customers. It is comprised of quality and timeliness measures for the administration of all IP rights. In 2019-20, IP Australia met 27 of its 34 commitments, meeting 11 of 12 quality commitments and 16 of 22 timeliness commitments.</p> <p>We also took the opportunity to review and streamline the CSC for the 2020-21 financial year to provide a simplified set of measures based on what is most important to our customers. The review entailed extensive consultation with customers and stakeholders to help us better understand their expectations. The new commitments will be measured through customer feedback and timeliness across our examination services.</p> <p>Doing business with us</p> <p>A critical tool in our continuous improvement strategy is measuring customer satisfaction with our services through an annual Customer Satisfaction Survey (CSS). Results from our 2019-20 CSS that indicate customers agree we are effectively administering the IP system include:</p> <ul style="list-style-type: none"> Satisfaction has increased on both the time it took to process applications (end to end process) (increasing from 73% to 80%) and the outcome of applications (increasing from 85% to 87%). Customers agree that IP Australia helps them to make informed business decisions on IP rights they have applied for or hold (86%). Customer satisfaction for the systems that support the application process, in particular the use of our search systems (93%) and our eServices systems (89%). Satisfaction with how we handle problems has remained high (85%). <p>Transaction Digital Services</p> <p>IP Australia's Transactional Digital Services (TDS) program seeks to transform our digital service delivery platform, eServices, and in 2019-20, introduced modern application programming interfaces (APIs) that cover 96 per cent of IP right transaction types. This means that our customers are spending less time transacting with us in submitting applications. While earlier than planned completion of the APIs has resulted in \$230,000 of benefits to our customers being realised, IP Australia expects that these cost savings for customers will substantially increase as more of eServices is replaced in coming years.</p> <p>Continuous improvement on Quality</p> <p>IP Australia delivered a new quality review framework, shifting to a principles-based approach that enables greater consistency across our search and examination services. The framework has been rolled out across all IP Rights and will be supported by a new information technology (IT) system in 2020-21, allowing us to further streamline and automate our quality processes.</p>
<p>Communication with regulated entities is clear, targeted and effective.</p>	<ul style="list-style-type: none"> Regulators provide guidance and information that is up to date, clear, accessible and concise through media appropriate to the target audience. Regulators consider the impact on regulated entities and engage with industry groups and representatives of the affected stakeholders before changing policies, practices or service standards. Regulators' decisions and advice are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions. 	<p>Timely administration of IP rights</p> <p>In 2019-20, IP Australia met 16 of 22 timeliness commitments under the CSC. This includes commitments that range from response times on correspondence from customers, examination reports and the granting of rights for successful applications. Further information on our performance against our timeliness and quality commitments is available in the IP Australia 2019-20 Annual Report. Results from the CSS indicate that the majority our customers were satisfied with our administration of the IP rights system (89%) and that enough detail and information was provided to them (86%) during the administration process.</p> <p>Response times for Trade Marks and Patents are also published on IP Australia's website.</p> <p>2019-20 Fee Review</p> <p>In 2019-20, IP Australia engaged with its stakeholders as part of its fee review, inviting public comment on our fees and fee structure with over 80 submissions received. We subsequently published our draft Cost Recovery Implementation Statement, seeking feedback over a 9-week consultation period with ten submissions received. In light of feedback expressing concern with proposed changes to costs awards for oppositions and hearings, IP Australia decided that the proposed changes required further consultation and has not proceeded with the changes at this time.</p>

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		<p>Support during COVID-19</p> <p>IP Australia's COVID-19 response ensured we provided clear assistance to customers affected by the pandemic. For customers unable to meet deadlines due to disruptions from the pandemic, we quickly implemented measures to streamline time extensions for most customer transactions and waived fees for those extensions. We established a dedicated helpline to provide information on trade mark protection. Our customers are accessing these targeted services, with nearly 1300 placing streamlined requests for time extensions or providing positive feedback on our trade mark helpline.</p> <p>Education and awareness</p> <p>In addition to administering the IP rights system in Australia and regulating the Trans-Tasman attorney rights profession, IP Australia also promotes awareness and education on the role of IP rights for our customers. To ensure that our communication methods are clear, accurate and up to date, we seek feedback from our customers annually on their experience when interacting with us.</p> <p>Overall, IP Australia received positive feedback through its annual CSS on the way it communicates with its customers, including IP Professionals and individual filers. Highlights include:</p> <ul style="list-style-type: none"> • High levels of satisfaction with our primary communication platform, with 89% of customers indicating they are satisfied with IP Australia's website. • Those who accessed our website found that the information was relevant (86%), up to date (84%) and easy to understand (76%). • Customers who interacted with our support services also provided positive feedback, indicating they were satisfied when interacting with our call centre (93%) or directly with a staff member (88%). <p>IP Australia also received positive feedback on the educational products and services it offered during the 2019-20 period. Of those who participated in an educational event, workshop or webinar:</p> <ul style="list-style-type: none"> • 99% found the event easy to access. • 94% found the information provided was easy to understand. • 89% found the information was up to date and correct. • 86% found that the event, workshop or webinar made it easier to understand what their next steps were. <p>While overall customer satisfaction was high in 2019-20, respondents to our survey identified some areas for improvement, including providing further clarity on the process for unsuccessful applications.</p>
Actions undertaken by regulators are proportionate to the risk being managed.	This KPI is not relevant to IP Australia. IP Australia does not have a compliance or enforcement role regarding IP rights once they are granted.	
Compliance and monitoring approaches are streamlined and coordinated.	<ul style="list-style-type: none"> • Regulators' information requests are tailored and only made when necessary to secure regulatory objectives, and only then in a way that minimises impact. • Regulators' frequency of information collection is minimised and coordinated with similar processes including those of other regulators so that, as far as possible, information is only requested once. • Regulators utilise existing information to limit the reliance on requests from regulated entities and share the information among other regulators, where possible. • Regulators base monitoring and inspection approaches on risk and, where possible, take into account the circumstance and operational needs of the regulated entity. 	<p>Patent and trade mark attorney profession</p> <p>IP Australia conducts an annual audit of registered patent and trade mark attorneys against the requirements of continuing professional education (CPE) to ensure competence in the profession. The audit for 2019-20 is currently underway with analysis expected to be complete by 30 November 2020.</p> <p>IP Australia does not have a compliance, monitoring or information collection role regarding IP rights once they are granted.</p>
Regulators are open and transparent in their dealings with regulated entities.	<ul style="list-style-type: none"> • Regulators' risk-based frameworks are publicly available in a format which is clear, understandable and accessible. • Regulators are open and responsive to requests from regulated entities regarding the operation of the regulatory framework, and approaches implemented by regulators. • Regulators' performance measurement results are published in a timely 	<p>Operation of the regulatory framework</p> <ul style="list-style-type: none"> • IP Australia publishes its Manuals of Practice and Procedures for each of the IP rights it administers on its website. These reference manuals provide clarity of the approaches implemented by IP Australia in its administration of the IP rights system. <p>Risk and performance frameworks</p> <p>IP Australia publishes a range of advice and guidance on its website related to risk management and performance. This includes:</p>

Regulator Performance Framework KPI	Regulator Performance Framework Performance Measures	2019-20 Results
	<p>manner to ensure accountability to the public.</p>	<ul style="list-style-type: none"> the Corporate Plan which outlines our risk management framework, governance structure and planned performance. The Customer Service Charter which outlines our service delivery commitments as well as quarterly reports on our performance against these commitments in 2019-20. A link to our Annual Report, which is hosted on Transparency.gov.au and outlines performance against the key performance indicators outlined in the Corporate Plan and Portfolio Budget Statements. The 2019-20 Annual Report will be available in late October 2020.
<p>Regulators actively contribute to the continuous improvement of regulatory frameworks.</p>	<ul style="list-style-type: none"> Regulators establish cooperative and collaborative relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework. Regulators engage stakeholders in the development of options to reduce compliance costs. This could include industry self-regulation, changes to the overarching regulatory framework, or other strategies to streamline monitoring and compliance approaches. Regulators regularly share feedback from stakeholders and performance information (including from inspections) with policy departments to improve the operation of the regulatory framework and administrative processes. 	<p>In 2019-20, IP Australia regularly consulted with representative stakeholder bodies including the Patents Consultation Group, the Trade Marks and Designs Consultation Group, the Plant Breeder's Rights Consultation Group and Trans-Tasman IP Attorneys Board.</p> <p>Bill 2</p> <p>IP Australia supported the passage of the <i>Intellectual Property Laws Amendment (Productivity Commission Response Part 2 and Other Measures) Act 2020</i> which commences the phasing out of innovation patent application in the IP rights system in Australia.</p> <p>Designs Review</p> <p>IP Australia's Designs Review Project was a year-long exploratory review of Australia's design economy and the role of design rights in incentivising design innovation. Adopting a user-centred approach, the multi-disciplinary team led research and stakeholder engagement activities throughout 2019-2020. This established a significant body of research based on findings and feedback from thought leaders and industry bodies who interact with the designs right system and will inform future changes aimed at fostering design innovation in Australia. The findings of this Designs Review can be found on IP Australia's website.</p> <p>Policy Register</p> <p>IP Australia maintains a policy register on its website and welcomes feedback from stakeholders to inform future priorities for changes to the IP right system. The register lists issues that we are considering or working on for policy action or legislative amendment, and new policy issues that inform the development of IP Australia's policy and legislative agenda can be submitted for consideration by stakeholders.</p> <p>Advice to government</p> <p>IP Australia provided advice and representation to the interdepartmental IP Policy Group as required. IP Australia consistently delivered advice on time, including briefings to the Minister and Assistant Minister on policy and legislation issues.</p>