Response to the Government Consultation on Changes to the UK Designs Framework

About the British Brands Group

The **British Brands Group** is a not-for-profit membership organisation dedicated to championing brands as a force for good in the UK economy. Our members are brand owners in the fast-moving consumer goods (FMCG) sector, ranging from global multinationals to small family-run firms, with around half being SMEs. Together, they represent a sector that invests heavily in innovation, design, and consumer trust.

Our mission is to make Britain a better place for brands to do business. We advocate for competitive markets, fair regulation, and intellectual property frameworks that reward creativity and innovation. A predictable, efficient, and fair designs system is fundamental to that ambition, ensuring businesses of all sizes can secure and enforce their design rights with confidence.

The Benefits of Brands

Brands deliver value well beyond their own businesses:

Great for shoppers: Brands help consumers navigate complex markets, enabling quick, confident choices built on trust and consistent quality. According to Ehrenberg-Bass Institute, the average consumer spends 13 seconds choosing what to purchase in-store. Most decisions are largely automatic and highly subconscious and McKinsey research shows 70% of purchases come from initial consideration and recall of brand. Even when two products are almost identical, 62% would pay more for brands because they've earned trust, according to Edelman.

Great for choice: Brands drive innovation by investing in design, sustainability, and product development, expanding the range of options available to consumers. Greater range strengthens competition, with brands competing on quality, innovation, reputation and choice as well as price. In the Group's recent Innovation Tracker, 59% of all FMCG innovation and 100% of all *distinctive* innovation comes from branded companies.

Great for the UK: Brands are vital to growth and business investment. Trade mark intensive industries correlate positively with higher levels of employment, a 42% wage premium and higher productivity. Branded products are exported around the world, enhancing the UK's global reputation.

Strong IP protection for design is central to these outcomes, as designs are one of the key ways brands express identity, quality, and innovation to the market. They are vital to the commercialisation of the investments they make to attract and sustain shoppers.

Key Principles of our Response

Our response is guided by five core principles that we urge Government to adopt in reforming the UK's designs framework.

1. Simplicity and Accessibility

The UK's designs framework must remain fast, low-cost, and straightforward. These features are central to its success, particularly for SMEs. Any reform that adds procedural layers, cost, or uncertainty risks discouraging registration and stifling innovation. The overriding aim should be to preserve the clarity and efficiency that make the system so effective today.

2. Proportionate and Targeted Reform

Changes to the framework should focus on specific problems—such as dealing with bad-faith applications—without creating unnecessary barriers for legitimate users. These challenges are best addressed through streamlined invalidity procedures and improved IPO processes, not through complex new legal tests or pre-registration hurdles. Reform must help catch the few who abuse the system without burdening the many who use it in good faith.

3. Smart Use of Technology

Technology offers significant potential to improve the integrity and usability of the designs system. The IPO should make greater use of AI and digital tools to identify and flag potential conflicts and support transparent decision-making — but only when such technology is proven, reliable, and does not add cost, delay, or complexity for applicants. Innovation in regulation should match innovation in design, without undermining the effectiveness of the current system.

4. Flexibility in Protection

The UK's design law should continue to offer flexible protection options that reflect the diversity of creative activity. Unregistered rights play a valuable role as a safety net, particularly for fast-moving markets and short-lived designs. At the same time, the system should provide commercially realistic durations of protection that match the lifecycle of branded products and the investment businesses make in design.

Registration must remain the primary route to protection, supported by simple, low-cost processes accessible to all.

5. A Globally Competitive and Future-Ready Framework

The UK should maintain a clear, fair, and predictable system that attracts global investment in design and brand-led innovation. Alignment with international standards where appropriate, combined with deliberate, strategic divergence where beneficial, will ensure that the UK remains a world-leading jurisdiction for creative enterprise.

Responses to Consultation Proposals

A. Search and Examination

The British Brands Group recognises the importance of maintaining a simple, low-cost and efficient registration process for UK designs. The current system's accessibility, particularly for SMEs, is one of its greatest strengths and should not be compromised.

We therefore support Option 0 (no change) as the preferred approach. The introduction of mandatory searches or a two-stage registration and examination system (Options 1 and 2) would add cost, complexity and delay, without clear evidence of proportional benefit.

That said, we recognise that the IPO may, in some cases, benefit from having a narrow power, exercised only where there is clear, fact-based suspicion of improper behaviour. For example, an obvious re-filing of a previously invalidated design or the submission of third-party marketing imagery. Such a power could help deter abuse of the system, provided it is used sparingly and does not introduce routine delay or procedural uncertainty.

Any search and examination powers introduced should therefore:

- Be entirely limited to exceptional cases where abuse is suspected.
- Impose no additional costs or procedural requirements on the vast majority of legitimate applicants.
- Avoid any delay to the speed of registration that SMEs value so highly.

The use of this power must be grounded strictly in objective indicators, not subjective opinion. The IPO should publish clear guidance setting out the specific circumstances or evidence types that would raise suspicion and justify intervention. This will ensure transparency, consistency, and confidence for applicants.

Over time, as AI-enabled search technologies mature, the IPO may wish to explore automated image-recognition tools to identify potentially conflicting designs. These could support the Office's discretion, without adding steps to the application process.

Recommendation:
Maintain the current system (Option 0) while granting the IPO a narrow power to investigate suspicious filings. This balanced approach preserves simplicity and cost-efficiency, while equipping the IPO to act swiftly against manifest abuse.

B. Bad Faith

The British Brands Group does not support the introduction of a new, explicit bad-faith provision in UK designs law.

While we recognise the problem of designs being filed in bad faith—such as applications that copy existing products or are intended to disrupt legitimate competitors—the experience of operating bad-faith tests in other areas of IP law (for example, trade marks) shows that such provisions are complex, subjective, and difficult to apply consistently. They often lead to lengthy and uncertain disputes, adding legal cost and delay without necessarily improving outcomes for legitimate businesses.

Instead, these issues can be better addressed through a more efficient and responsive invalidity process. A streamlined, easily accessible procedure for challenging and invalidating registrations would provide a faster, clearer route to remove bad-faith filings from the register, avoiding the complexity of a new statutory test.

In particular, we recommend that Government focuses on:

- Improving the speed and accessibility of invalidity actions, including simplified online filing and clear guidance for SMEs.
- Ensuring decisions are issued promptly, ideally within a fixed, short timeframe.
- Using technology (such as image-matching tools) to flag potential copy filings and refer them for review or targeted invalidity.

This approach would achieve the same policy goals—removing abusive filings and protecting legitimate rightsholders—without adding new layers of complexity to the law or to the examination process.

Recommendation:
Do not introduce a new bad-faith provision. Instead, strengthen and expedite the invalidity process as the main route to deal with dishonest or anti-competitive design filings.

C. Observation and Opposition

Brands oppose the introduction of pre-registration observation or opposition procedures.

While intended to improve validity, these measures would undermine the speed, simplicity, and affordability that make the UK designs system attractive—particularly for smaller businesses. Pre-registration observation periods risk creating uncertainty about when rights take effect and could expose applicants to delays or tactical objections from competitors.

A further concern is that any formal observation or opposition period would prevent legitimate applicants from enforcing their design rights during that window. This would create a period of vulnerability in which copied or infringing products could enter the market without the applicant being able to rely on full protection. Such a delay would undermine the purpose of a fast, accessible registration system and weaken the commercial value of design rights at precisely the moment they are most needed.

Moreover, requiring businesses to monitor the Design Journal or similar publications continually would place an unreasonable burden on SMEs, diverting resources from innovation, product development and other activities key to success. Such measures would not deliver proportional benefits in preventing abuse of the system.

We welcome the consultation's recognition that anti-competitive or bad-faith filings are best addressed through other, more efficient mechanisms. Specifically, we support:

A faster, streamlined invalidity process as the preferred route to remove improper registrations;

The development of technology-led systems to detect and alert existing rights holders to potentially similar designs, reducing the need for manual monitoring; and

IPO discretion to review suspicious filings where evidence suggests copying or bad faith, without introducing additional procedural stages for all applicants.

A technology-enabled alert system—using AI image-recognition or pattern matching—could provide early visibility to rightsholders when designs similar to their own are filed. **Any such system must not introduce additional costs, procedural steps, or delays for applicants.** Technology-led tools should be adopted only when they are proven, reliable and capable of operating at scale. The objective must be to support rightsholders while preserving the speed and accessibility of the current application process, not to transfer burdens or introduce new points of friction. This would represent a modern, proportionate, and proactive alternative to traditional opposition procedures, without adding friction to the registration process.

Recommendation:
Reject the introduction of observation or opposition periods.
Instead, strengthen the **invalidity process** to ensure rapid, low-cost resolution of disputes, and explore **technology-led notifications** to alert brand owners to potentially conflicting applications.

D. Deferment

We have no strong objection to the proposed statutory 18-month deferment period. However, we urge Government to align the UK deferment period with established international norms—either the EU's 30-month period or the widely used 12-month period—rather than creating a unique UK-only duration. A distinctive deferment length would add unnecessary complexity for businesses operating internationally.

An explicit provision adds legal clarity, and alignment with patent publication timelines is sensible. However, the Government should ensure that basic published information (applicant name, classification, filing date) remains minimal to protect confidentiality during product development.

A longer deferment period also increases the risk of inadvertent infringement, as third parties cannot assess the appearance of a deferred design. Publishing only basic information offers little practical benefit, as design rights are visual rights, and without the images themselves, others cannot meaningfully avoid conflict. Any deferment system must balance confidentiality with the need for legal certainty for the wider market.

We suggest the IPO periodically review the adequacy of the deferment period—especially for industries with long product cycles, such as automotive or electronics—to ensure continued relevance.

E. Graphical User Interfaces and Animated Designs

The British Brands Group supports the Government's proposal to clarify that Graphical User Interfaces (GUIs) and animated designs are registrable under UK design law.

Digital interfaces have become a fundamental component of how consumers interact with products and evoke brand memory. The ability to protect distinctive GUI and animation design elements—such as layout, icons, movement, and transitions—is essential for safeguarding the creative investment brand owners make in user experience and visual identity.

However, clear definition and scope are critical to ensure that protection in this area does not inadvertently stifle legitimate competition or restrict creative expression. Without clear boundaries, there is a risk that overly broad claims to GUI or animation elements could be used to prevent competitors from engaging in legitimate advertising, digital storytelling, or user-interface innovation.

We therefore recommend that:

The IPO adopts a clear and precise definition distinguishing protectable GUI and animated design elements (those integral to product function and user interaction) from broader digital content such as advertising animations or video material used for marketing;

Detailed guidance and illustrative examples be provided to ensure consistent examination and understanding by both applicants and third parties; and

The IPO continues to permit a wide range of file formats to enable accurate representation of moving or interactive design features.

This will help ensure that protection of GUIs and animated designs operates as intended: rewarding genuine innovation and design investment, while avoiding overreach that could impede creative or commercial freedom.

Recommendation:

Support the proposal to make GUI and animated designs registrable, accompanied by **clear definitional boundaries and practical guidance** to ensure balance between protection and fair competition.

F. Computer-Generated Designs and AI

The British Brands Group has chosen not to comment substantively on this aspect of the consultation.

While the role of artificial intelligence in design creation is an increasingly important topic for brand owners, it also raises a broader and more complex set of issues that extend beyond design law alone — including authorship, ownership, originality, and ethical use of training data. These matters are best addressed holistically across the intellectual property framework, rather than within the limited scope of this consultation.

Members are keen to embrace AI as a creative tool to support innovation and the development of distinctive brand assets. At the same time, they are mindful of the need to protect existing rights and ensure that AI-generated content does not infringe others' IP.

The Group therefore encourages Government to consider AI and IP as a unified policy area, engaging with stakeholders across copyright, trade mark, and design law to develop a consistent approach.

Recommendation:
No specific comment on the design aspects of AI within this consultation. Broader questions about computer-generated creativity should be examined in a cross-cutting review of AI and intellectual property.

G. Miscellaneous Provisions

The British Brands Group has no further comment on the miscellaneous proposals contained in the consultation and support the recommendations as set out by Government.

We recognise that these proposed updates — covering administrative and procedural matters such as harmonised time limits, updated filing formalities, and the removal of rarely used processes — are primarily intended to streamline operations and improve efficiency within the designs framework.

Members consider these changes to be sensible housekeeping measures that will modernise the system without altering its substantive balance of rights or imposing additional burdens on applicants.

Recommendation:
Support the proposed miscellaneous updates in full, noting that they represent a welcome simplification of procedure and contribute to a more efficient and accessible designs regime.

H. Simplification of Unregistered Design Rights

The British Brands Group does not support any of the options currently proposed in the consultation for reforming or simplifying unregistered design rights.

While we agree that the current framework is complex and would benefit from greater clarity and coherence, simplification must not come at the expense of flexibility. It is important to emphasise that simplification must not equate to a reduction in the breadth, strength, or availability of protection. Streamlining the law should improve usability and clarity, not diminish the practical tools available to designers and brand owners. Any reform that narrows the scope of unregistered design rights, removes valuable forms of protection, or reduces the flexibility that currently exists would risk weakening the UK's competitive position. Simplification should therefore aim to enhance the system without truncating it, ensuring that businesses retain the full range of protections needed to bring new designs to market with confidence. Unregistered design rights are an essential tool for brand owners, providing fast, automatic protection for creative assets at early stages of innovation, particularly where product lifecycles are short or designs evolve rapidly.

The coexistence of multiple rights (such as the UK Design Right and the Supplementary Unregistered Design) can cause confusion, but it also offers valuable diversity of protection, reflecting the range of creative activity that brands undertake. Removing one form of right or narrowing the scope of protection risks weakening the UK's competitiveness and reducing incentives to innovate.

At the same time, the simplicity and low cost of the registered design system are critical strengths that must be preserved. Registration should remain quick, accessible, and affordable, ensuring that it continues to be the preferred route for protecting designs. Unregistered rights should operate as a safety net, not as a substitute for registration. The policy objective should be to encourage businesses—particularly SMEs—to secure registered protection wherever possible, supported by clear guidance and efficient digital tools.

Rather than adopting any of the listed options, we recommend the creation of a new consolidated unregistered design law that brings together existing provisions while maintaining distinct "tracks" tailored to different types of design creation — for example:

- A short-term, appearance-based right for fast-moving consumer goods, packaging, and surface designs, aligned broadly with the current Supplementary Unregistered Design; and

- A longer-term, functional or structural right for more complex product designs and three-dimensional forms, capturing the essence of the current UK Design Right.

This approach would simplify and modernise the legal framework without removing valuable distinctions in protection. It would also make the UK's system more navigable and attractive to designers and brand owners, while continuing to reflect the practical realities of different sectors.

In addition, we encourage Government to consider extending the duration of protection for unregistered design rights beyond the current EU standard of three years, to reinforce the UK's reputation as a leading jurisdiction for brand and design investment. A longer period of enforceability would increase confidence for creators and strengthen incentives for innovation.

We believe the UK now has a strategic opportunity to strengthen its position as a leading jurisdiction for brand and design investment by increasing the duration of unregistered design rights to 10 years for both appearance-based and shape/configuration designs.

A 10-year term would reflect the commercial reality of design-led industries, where products often remain on the market far longer than the current three-year period allows. It would give brands the confidence to invest in distinctive shapes, packaging and surface designs, knowing that their creative assets are adequately protected throughout the typical lifecycle of FMCG products.

Crucially, this would also create clear competitive advantage for the UK internationally, positioning it as a place where design innovation is both encouraged and reliably safeguarded.

Recommendation:
Reject the current options for simplification. Instead, pursue a new, consolidated unregistered design regime that preserves flexibility by providing distinct protection tracks for appearance-based designs and for shape/configuration designs. This consolidated framework should make the law clearer and easier to navigate without reducing the breadth or strength of current protection.

As part of this reform, the UK should introduce a 10-year term of protection for both appearance-based and shape/configuration unregistered designs. This would provide a commercially realistic duration that supports meaningful investment in brand identity and product form, strengthens incentives to innovate, and enhances the UK's attractiveness as a jurisdiction for design-led businesses.

The simplicity and affordability of registration must remain foundational, with unregistered rights operating as a safety net, not a substitute for registration.

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I. Unregistered Designs Post-Brexit

Brands broadly support the principle of extending the territorial scope of unregistered design protection to recognise disclosures made outside the UK. This would reflect the realities of global design markets and the cross-border nature of brand innovation.

There is broad support among members for either Option 3 or Option 4, provided the approach adopted ensures legal clarity and promotes the UK's competitiveness as a destination for design-led businesses.

- Option 3 (creation of a UK Supplementary Unregistered Design following first disclosure anywhere in the EU, if known to UK trade circles) would restore some of the reciprocity lost post-Brexit and reduce risk for businesses operating across the UK and EU.
- Option 4 (creation of a UK SUD following first disclosure anywhere in the world, if known to UK trade circles) would go further, signalling that the UK is open and welcoming to designers and brand owners globally.

In either case, the critical consideration is clarity and predictability: businesses must be able to determine with confidence when and where unregistered rights arise. The term *"known to UK trade circles"* will need a precise legal definition and clear, practical guidance to avoid uncertainty and litigation.

Whichever option Government selects, the design framework should continue to encourage registration as the first line of protection, with unregistered rights providing a fallback safety net. An internationally inclusive approach to disclosure, combined with simple and low-cost registration, would ensure that the UK remains a leading jurisdiction for brand and design investment.

Recommendation:

Support a **flexible approach encompassing either Option 3 or Option 4**, provided that:

- "Known to UK trade circles" is clearly defined;
- The system maintains legal certainty and ease of use; and
- The UK continues to be positioned as an **open, global hub** for design innovation and brand creativity.

J. Criminal Sanctions for Unregistered Design Infringement

Brand owners strongly oppose the introduction of criminal sanctions for unregistered design infringement.

Unregistered design disputes frequently involve genuine differences of opinion about the scope and originality of protection. Unlike registered rights—where boundaries are clear and recorded on a public register—unregistered designs are often difficult to define with precision. This makes it highly probable that any alleged infringement will stem from unintentional overlap rather than deliberate copying.

Criminalising such conduct would risk chilling legitimate competition and creativity, particularly for SMEs that may lack access to specialist IP advice. It would also create a disproportionate enforcement regime in which potentially honest business activity could trigger severe penalties.

Civil remedies already provide adequate and proportionate protection for rightsholders. The focus should be on improving the speed, accessibility, and effectiveness of these civil routes—particularly the small claims track—so that genuine cases of infringement can be resolved quickly and fairly.

In cases of deliberate or repeated misconduct, proportionate administrative measures (such as fines or director disqualification) could be considered, administered through the courts. This would maintain deterrence while avoiding the risks and burdens of criminalisation.

Recommendation:

Do not extend criminal sanctions to unregistered design infringement. Civil and administrative remedies offer a **more balanced, proportionate, and effective** approach to enforcement.

K. Small Claims Track for Registered Designs

We support extending the Intellectual Property Enterprise Court's small claims track to registered design cases. This would make enforcement more accessible, especially for SMEs, by reducing legal costs and procedural complexity.

Effective enforcement is vital for confidence in the registration system. A small-claims route would ensure that rights are meaningful for all.

Summary of Response

The British Brands Group advocates a designs framework that is simple, affordable and fit for modern business. The UK's strength lies in a system that enables creativity to flourish without unnecessary cost or delay. Reform should target misuse precisely, not burden legitimate innovators. The focus must remain on speed, proportionality and accessibility, encouraging registration as the first line of protection while keeping unregistered rights as a flexible safety net. By combining efficiency with clear rules and technological support, the UK can maintain its reputation as a world-leading environment for design, innovation and brand investment.