



Intellectual
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Office

Government Response to the Consultation on Standard Essential Patents



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The Patent Office

Government Response to the Consultation on Standard Essential Patents

Presented to Parliament by the Minister of State for Science, Innovation and Investment
by Command of His Majesty

October 2026



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Ministerial foreword

Innovation is central to this government's mission to grow the economy, raise living standards and improve everyday life. Intellectual property (IP) has a vital role in that mission. It gives inventors, creators, and businesses the confidence to invest, develop new products and services, and bring them to market.

Standard Essential Patents ('SEPs') are an increasingly important part of innovation in the United Kingdom (UK). SEPs are patents that protect technologies which are essential to technical standards. Those standards allow products and services to work together reliably and at scale. They support many of the technologies people use every day, from smartphones and wireless devices to connected vehicles, medical technologies, advanced manufacturing, streaming services, and smart consumer products.

This government's SEPs consultation examined how it supports the functioning of the SEP licensing ecosystem, so it works effectively for businesses of all sizes. This is increasingly important as technologies that began in telecommunications now underpin a wide range of sectors. As their reach expands, the SEP framework becomes more important for the UK economy. It is the government's ambition to ensure the SEPs ecosystem remains balanced, efficient, and supportive of innovation, adoption and competition.

We received consultation responses from a wide range of stakeholders, including rightsholders, implementers, small and medium-sized enterprises (SMEs), large businesses, legal professionals, academics, and representative bodies from the UK and overseas. Responses showed broad support for the goals of greater transparency, efficiency, and predictability, even where views differed on the best means of achieving them. I am grateful to everyone who took the time to provide evidence.

The government is taking forward targeted interventions to make SEP frameworks more predictable, accessible and efficient for businesses of all sizes, while continuing to support innovation and protect fundamental IP rights. This includes improving transparency through enhanced information and guidance and improving the framework for earlier and more effective licensing negotiations. Together, these measures will support better-informed engagement between parties and reduce unnecessary escalation to litigation.

We will continue to work with businesses, experts and international partners in the implementation of our measures. I welcome the continued engagement of all those with an interest in this area as we take this work forward. Our aim is clear: to ensure the UK's SEP framework supports innovation and helps businesses of all sizes participate confidently in the technologies that will shape our future.

Chris McDonald MP

Minister of State for Science, Innovation and Investment

Executive summary

Responses to the government's SEPs consultation confirmed the importance of SEPs to innovation and the economy. The evidence confirmed that there are issues around transparency in SEP information and the cost and complexity of dispute resolution.

Following careful consideration of consultation responses, the government is taking forward a package of measures. The package will meet government objectives for the ecosystem – in particular, making SEP licensing more transparent, predictable, and accessible, especially for SMEs. At the same time, the measures will ensure interventions remain proportionate, achievable and do not duplicate international efforts.

These measures are:

1. **Improving SEP dispute resolution:** The evidence did not support the consultation proposal for a new rate determination track for FRAND (fair, reasonable and non-discriminatory) cases in the Intellectual Property Enterprise Court (IPEC). However, there was clear support for the underlying principle of faster, lower cost resolution of FRAND disputes, which government will seek to provide through alternative measures:
 - Court-anchored early FRAND determination - the government will work with the judiciary to explore the introduction of a structured early neutral evaluation process for FRAND disputes within existing England and Wales court proceedings. This would give parties an early indication from a judge on FRAND terms, encouraging settlement and reducing reliance on completing court litigation
 - FRAND licensing guidelines setting out how parties should engage with the new package of measures as a whole, including the court-anchored pathway and any IPO-led FRAND opinion service
 - IPO-led FRAND Opinion Service - the Intellectual Property Office (IPO) will engage and consult with stakeholders to establish the feasibility of introducing a voluntary, non-binding "FRAND opinion" service to give parties an early view on whether a proposed SEP licence offer lies within a FRAND range. If feasibility is established, the government will work with industry and technical experts on the detailed design and intends to pilot the service. Legislation may be necessary to underpin the service
2. **Enhancing transparency of SEP information:** The government will look to introduce a measure for voluntary disclosure of standard-related patent information at the IPO. This will help businesses identify which standard related patents to license in order to implement a standard. This voluntary provision will not compete with declarations made to standard development organisations (SDOs). It will apply at a later stage, when standards are more likely to be finalised. This will create a central source of SEP data where rightsholders can register information about patents that are essential to standards through the new IPO Service. This aims to reduce information gaps and negotiation delays in the licensing process. The government will work with industry stakeholders to determine what standard related patent information should be provided by rightsholders to the IPO. The aim is to balance clear and proportionate requirements on rightsholders, with benefits for implementers.

3. **Pre-litigation conduct:** The IPO and relevant government departments will look to examine ways to encourage more effective pre-action information exchange in SEP disputes within the existing civil procedure framework. This approach will be targeted and developed along with the judiciary to try to avoid imposing unnecessary burdens or conflicting with international norms. The need for any new SEPs-specific pre-action protocol will require consideration alongside FRAND licensing guidelines and alignment with the wider package.
4. **Essentiality assessments:** Consultation responses did not establish a clear case for an IPO-run essentiality checking service at this stage. The government will work on improving transparency, encouraging better-quality information, and supporting more informed use of existing services, through working with industry.
5. **Remedies in SEP disputes:** The government position is that the current frameworks remain broadly adequate in respect of SEP disputes. The evidence did not support the case for legislative changes in relation to the availability of injunctions in SEP disputes. However, the government recognises the concerns raised regarding ‘bad faith’ negotiation behaviours. The government will look to develop guidance on negotiation best practice to provide the necessary support for businesses, particularly those new to SEP licensing. The guidance, in conjunction with the other measures in this response, especially those on transparency, will aim to deal with bad practice, where it exists.
6. **Alternative Dispute Resolution (ADR):** No new standalone ADR services or expansion to IPO’s mediation service specifically for SEPs will be introduced at this time. The consultation indicated that mediation and arbitration services do exist but that there are barriers limiting their use. The government will look to address this by providing clearer practical guidance and improving signposting to existing ADR services. This may, for example, include expanding the SEP Resource Hub with information on ADR. The aim is to encourage greater uptake of ADR where appropriate, rather than creating new and potentially overlapping services.
7. **Continuing non-regulatory and international efforts:** The IPO will build on its existing non-regulatory measures, including leading international work through the Intergovernmental SEP Network (ISN) and engagement with SDOs. These non-regulatory initiatives help reduce fragmentation in the global SEPs ecosystem and complement the broader package of measures.

Next steps

Where relevant, the government will undertake further design and implementation work for these measures, working with stakeholders, judiciary and relevant experts. This will ensure that detailed design reflects industry input and aligns with international best practice. A suitable legislative vehicle will be required for measures requiring legislation. As such, these measures are likely to be implemented over a longer timeframe.

Introduction

Any discussion around issues in the Standard Essential Patents (SEPs) ecosystem will usually prompt polarised views, depending on where one is in the ecosystem. Rightsholders generally emphasise that, while information asymmetries exist and there may be instances of poor conduct, the market is broadly functioning effectively. Implementers, by contrast, tend to highlight concerns about potential market distortions and argue that these warrant intervention.

Evidence from the consultation points in the direction of some intervention, in order to deal with systemic issues in the ecosystem. However, as in any other area of policy, the government needs to be careful about the degree of intervention. This must be targeted at points in the ecosystem where market issues have materialised and must be supported by comprehensive evidence.

Evidence indicates ecosystem issues are largely business disputes centred on licensing negotiations, especially licence rates. In other words, a proportion are patent disputes in form only (in that they at least involve some form of infringement or essentiality consideration). These disputes are more commonplace in less mature markets. In markets that are more mature, in part because of global litigation, an accepted FRAND rate range may gradually begin to materialise.

The government recognises that some ecosystem issues are longstanding, while others are emerging, and both need to be reflected in policy. The government must ensure that it is not trying to address the issue of the moment – be it hold up, or hold out, or litigation around particular standards or technologies – but provides solutions that are technology-neutral and future-proofed.

More recent ecosystem developments include a growing appetite for cross-border litigation which in turn have given rise to jurisdictional challenges and some comity issues. The government does not wish to exacerbate existing jurisdictional complexities through its policymaking. A decade ago, disputes largely centred on the telecommunications sector and cellular standards. More recently, disputes have shifted towards connectivity standards, including in the Internet of Things (IoT) and automotive sectors.

Litigation is increasingly emerging in areas such as streaming services and video codec technologies. While the sectors involved are changing, the underlying issues in dispute remain broadly the same.

There is also increased activity internationally. Patent offices, supranational institutions and industry, amongst others, have begun taking action. The World Intellectual Property Organisation (WIPO) now makes SEPs searchable through PATENTSCOPE and in respect of its ADR services, rightsholders have made a Mediation Pledge. The European Patent Office (EPO) is taking steps to improve the searchability of SEPs. The Intellectual Property Divisions of the Tokyo District Court in Japan announced both the introduction of SEP Juridical Mediation (SEPJM) and SEP Litigation Guidelines. In its policymaking, the government recognises the risks around duplicating initiatives or unnecessarily complicating an ecosystem that is already difficult to navigate, especially for SMEs.

The package of measures set out in this response account for these developments, and more. They are proportionate, achievable, and will provide strategic certainty to businesses. They can be mutually reinforcing, in that, for example, improving transparency can reduce the likelihood of litigation. In many cases they are also complementary and work together as a package. For example, the essentiality measures (around disclosure of information and essentiality services) can work in tandem with FRAND negotiation guidance. The measures also strike the right regulatory balance, in some cases introducing self-regulation or light touch intervention, as a first step. These can be built on as further ecosystem issues materialise. To this end, the government continues to welcome evidence on ecosystem challenges and how these might be dealt with.

The package of measures proposed align with the Industrial Strategy and its aims to deliver inclusive, sustainable and resilient growth. By supporting businesses in areas where connectivity is essential, the measures also contribute across all high-growth sectors identified in the Strategy. There is consideration of, and alignment with, the standards-related work led by the Department for Business, Innovation, Science and Trade (DBIST) and Department for Digital, Culture, Media and Sport (DCMS).

The government also notes that the Competition Markets Authority (CMA) has recently consulted on draft guidance on technology transfer agreements. This consultation includes some discussion of the assessment of SEPs and technology pools under the [Competition Act 1998 in the context of technology transfer agreements](#). This follows the recent adoption of the [Technology Transfer Agreements Block Exemption](#), which was based on a [CMA Recommendation to the Government](#). The Government welcomes the CMA's work in this area.

Background

A patent that protects technology that is essential to implementing a standard is known as a Standard Essential Patent (or a “SEP”). Technical standards enable interoperability between devices and systems. They are used across a range of sectors, including telecommunications, consumer electronics, automotive and emerging areas such as the Internet of Things (IoT). As their use grows, technical standards are set to play an increasingly important role in supporting innovation and economic activity.

In the UK, businesses that rely on technical standards are increasing, including those linked to the IoT and advanced connectivity. These sectors are expected to grow at a faster rate than the UK economy as a whole. The government’s Digital and Technology sector plan identifies advanced connectivity as one of six areas with the greatest potential to drive technology-enabled growth over the next decade.

Since 2021, the IPO has been gathering evidence to better understand how the SEPs ecosystem operates in practice. This has included a Call for Views in 2021, and a 2023 SME SEP Questionnaire. As part of this work, the IPO initially focused on non-regulatory measures. However, evidence suggested systemic issues within the SEPs ecosystem are related to transparency and asymmetry information on pricing and essentiality and may need more direct action.

In light of this evidence, the government published a consultation on SEPs in July 2025 seeking views on how to address any systemic ecosystem issues. The consultation sought views on measures to improve the efficiency and transparency in SEP licensing. It also asked for evidence in other ecosystem areas, such as dispute resolution and essentiality services, in addition to the effectiveness of existing non-regulatory measures.

How the consultation was run

The SEPs consultation ran from 15 July to 7 October 2025. The consultation was open to the public and respondents could reply via an online form on Citizen Space or by email.

The consultation asked 47 open and closed questions on the SEPs ecosystem. Both structured responses to each question and more detailed unstructured submissions were received. Respondents were not required to answer every question but were invited to respond to specific consultation questions and encouraged to provide supporting evidence. This included qualitative and quantitative data, case studies, economic or legal analysis, and any relevant expert reports.

In total, the consultation received 93 responses, many of which included supplementary expert reports. Respondents submitted their views through a variety of methods. 30 respondents submitted directly to Citizen Space whilst 18 responded both via Citizen Space and by email to provide supplementary information. 45 respondents opted to respond exclusively by email to either answer the consultation questions directly or provide additional information.

Responses were received from rightsholders and implementers, SMEs, multinational companies, academia, consultants, legal professionals, business representative organisations, trade associations and other individual experts and groups. Government analysed responses to each question and also reviewed the detailed reports submitted, taking account of the evidence they contained.

These respondents encompassed a broad geographic distribution, including the United Kingdom, the United States, Europe and Asia.

The Consultation included a [Privacy notice](#) containing information for participants on their rights and how their responses will be used. This notice also explained the use of AI to undertake the analysis.

Consultation part 1:1 - Rate Determination Track

What government asked

SEP disputes before the Courts of England and Wales can take many years with multiple trials and associated high costs. In the SEP Consultation, the IPO asked questions on the proposed introduction of a 'Rate Determination Track' (RDT) to the Intellectual Property Enterprise Court (IPEC). The consultation asked how the government can ensure cost-effective access to a FRAND rate determination in cases where infringement, essentiality and validity are not in dispute.

The questions asked

Question 1

Would a RDT within IPEC meet our objectives of providing fast and efficient rate determinations?

Question 2

Locating a RDT in an existing court structure has advantages, but are there any alternatives that could achieve the government's objectives?

Question 3

What are your views on how the government could ensure a rate determination route is accessible to SMEs?

Question 4

What should the remit and scope of a RDT be e.g. reasonable licence rates and terms; who brings the claim (licensor, licensee or other parties)?

Question 5

Are you aware of any additional evidence or research the IPO could utilise to inform the development of the RDT, or alternatives to the RDT that achieve the same outcomes?

Question 6

How do you think a RDT should be structured and resourced to be effective and accessible (e.g. composition of a panel with relevant expertise, decision-making processes, procedural rules)?

Question 7

In your view, how would the government's proposed RDT provide efficiencies above and beyond what is available elsewhere in the High Court?

Question 8

What would be your preferred model to base licence rate calculations on? What specific methodologies or principles do you believe should be considered?

Question 9

What factors should determine which calculation method is used, or be taken into consideration (e.g. licence facts such as duration, scope, age, term, previous royalty rates, fee structure; and company specific data such as size, sales volume, products)?

Question 10

Do certain sectors or technologies require their own specific methodology? Please provide examples.

Question 11

Would publication of decisions be an enabler of transparency or discourage use of the RDT?

Question 12

What powers or procedural rules should be implemented to ensure the RDT operates effectively and facilitates accessible, quick and cost-effective rate determinations?

Question 13

What powers and rules of procedures would be most useful to ensure the RDT can encourage its use by all parties in the SEP ecosystem?

What government heard

Consultation responses broadly supported the principle of a quicker, more affordable and predictable way to resolve FRAND rate disputes. This would be particularly helpful to smaller and less experienced participants in the SEP licensing ecosystem. However, no consensus emerged in favour of the RDT.

There was no holder/implementer divide on the underlying principle. Implementers and holders broadly agreed on the need for a more proportionate route to resolve rate disputes, together with appropriate disclosure and confidentiality safeguards. Differences arose more clearly in relation to the design. Holders were more likely to favour reliance on comparable licences where reliable data exists. Implementers more often emphasised aggregate or top-down approaches, transparency measures, and safeguards against information asymmetry and royalty stacking.

Views also varied by company size. Micro and SME respondents more consistently emphasised affordability, simplified procedures, reduced evidential burdens, early disclosure, and access to guidance or benchmark information. Some also indicated that a court-based process could still remain beyond the means of smaller firms. Larger respondents more often raised concerns about the complexity of FRAND disputes, the practicality of isolating rate issues from wider litigation, and possible international or comity implications.

Support for an RDT was therefore often conditional rather than unqualified. In response to the request for views on alternatives, many respondents favoured interventions short of a new Track. This included improved SEP licensing guidance and transparency tools developed by the IPO as a trusted and neutral source of support, education and information.

Government response

Having considered the consultation evidence, government has decided not to introduce a separate RDT within IPEC. Respondents broadly supported the objectives of a quicker, more affordable and more predictable route to resolving FRAND rate disputes. However, the evidence did not demonstrate that a dedicated IPEC track would provide a sufficiently clear, workable route to FRAND rate determination.

In particular, evidence pointed to the practical difficulties. These included separating rate-setting from wider disputes; the evidential and methodological complexity of FRAND assessment; and a material risk that a standalone track would not in practice produce the intended gains in speed. There were concerns that prioritising speed and cost savings could compromise quality of outcomes and reduce confidence across the SEP ecosystem.

The consultation evidence reflects a range of inputs, including stakeholder views, illustrative examples and, in some cases, anecdotal evidence. This evidence indicates the prevalence and diversity of views rather than a single representative position. In reaching its conclusions, the government has therefore given particular weight to evidence on practical feasibility and likely outcomes. Government also took into account the range and depth of expertise reflected in the responses, including drawing on contributions on judicial, technical and international experience. In this context, concerns about evidential complexity, case fragmentation and the risk of reduced quality or confidence in outcomes were judged to be decisive in assessing whether a standalone RDT would meet the policy objectives.

The consultation did not indicate that courts lack procedural powers in principle, including the ability to encourage Early Neutral Evaluation. Rather, the evidence suggested that existing tools (e.g. ADR) and procedures are not always used early or consistently enough to address the issues in SEP/FRAND disputes. Barriers to use highlighted by respondents included information asymmetry, confidentiality concerns and uncertainty over likely outcomes. The ADR section builds on these themes.

The evidence showed a strong case for intervention to improve FRAND dispute handling, particularly before litigation and for smaller businesses.

Accordingly, the government will look to take forward an alternative package of measures to support faster, more affordable and proportionate FRAND dispute resolution, namely

- assessing the feasibility of an IPO-led FRAND opinion service

- developing a court-anchored FRAND determination mechanism
- introducing FRAND licensing guidelines

These interventions operate at different stages of a typical SEP dispute and serve distinct but complementary functions. Taken together, these measures aim to improve access to proportionate, lower-cost routes for assessing FRAND rates for businesses, particularly SMEs.

a) IPO-led FRAND opinion service

The consultation evidence points to a role for a non-binding mechanism to support licensing negotiations at an earlier stage. In particular, there is a gap for independent assessment that can help parties test whether a proposed licence offer appears to fall within a plausible FRAND range. This can reduce information asymmetry and support more informed and efficient negotiations before parties resort to litigation or other formal dispute resolution.

The government will therefore assess the feasibility of an IPO-led FRAND opinion service. Any such service would be voluntary and non-binding. It would be intended to assist parties in early-stage licensing discussions by providing an indicative opinion on whether a proposed offer falls within a plausible FRAND range. This reflects the consultation evidence that FRAND valuation does not typically produce a single precise answer in every case. No single valuation methodology is suitable in every case; parties may rely on different but complementary methodologies.

WIPO's Economic Report FRAND Economics: Valuation Methods in Licensing SEPs (June 2026) noted that particular licensing scenarios may yield a range of reasonable FRAND outcomes rather than one precise rate, and different valuation methods, including comparable licences and top-down approaches, can often be used together as complementary tools.

Any new service would not determine final liability, adjudicate patent validity or infringement, or impose a binding global FRAND rate. It would not replicate the courts' adjudicative role. It would support greater transparency, including possible publication of anonymised outputs or benchmarks, subject to appropriate safeguards given confidentiality concerns raised by respondents.

The government will next engage and consult with stakeholders to test the feasibility of such a service. This will include looking at its scope, implementation model, costs and interaction with existing mechanisms. Subject to the outcome of that work, this would inform decisions on implementation, including whether to establish an expert panel to support the opinion service.

b) Court-anchored FRAND determination mechanism

Alongside the IPO-led FRAND opinion measure, the government will commence discussions with the judiciary on a court-based early neutral evaluation (ENE)-style FRAND determination mechanism. This would not create a new standalone rate-setting

forum. Instead, it could build on the courts' existing case-management powers under Part 3 of the Civil Procedure Rules (CPR) (Part 3, including rule 3.1(2)(m)). It will introduce a clearer procedural pathway for SEP/FRAND cases once a claim has been issued. The Courts of England and Wales already have broad case management powers under the CPR to order an ENE hearing. This was confirmed by the Court of Appeal in *Lomax v Lomax*. However, this power is discretionary and not part of any dedicated FRAND resolution process.

The government will also consider whether the most practical approach would be a pilot Practice Direction, potentially under CPR Part 51. This could provide for an automatic stay in FRAND cases to enable parties to engage in ENE or another appropriate form of ADR. ENE appears particularly well suited to FRAND disputes because it retains judicial oversight. This allows parties to receive an early, non-binding determination from a judge, while retaining the ability to continue proceedings if settlement is not reached. Costs consequences may provide an important incentive for parties to engage constructively. This proposed court-anchored process would need to be timely, proportionate and supported by clear FRAND licensing guidelines to be effective in practice.

Government will investigate the feasibility and implementation method for the following:

- a pilot Practice Direction, potentially under CPR Part 51
- an automatic stay in appropriate FRAND cases
- referrals to Early Neutral Evaluation
- possible costs consequences where parties fail to engage constructively
- guidance or procedural material explaining how the process would operate
- a focus on retaining judicial involvement, while encouraging earlier settlement

c) FRAND licensing guidelines

To support the operation of the court-anchored pathway, the government will look to develop and publish FRAND licensing guidelines. The guidelines will set out the practical steps and procedural considerations how to use these services, aiming to provide more efficient resolution of disputes. They are different from the narrower good-faith licensing guidance described in the legal remedies section Consultation part 2:3 - remedies. These focus primarily on negotiation conduct and behavioural expectations. The FRAND licensing guidelines will have a broader function. They will help explain how parties should engage with the new package as a whole, including the court-anchored pathway and any future IPO-FRAND opinion service. The licensing guidelines aim to be consistent with existing legal frameworks and without prescribing outcomes in individual cases.

They are not intended to prescribe outcomes or alter the FRAND legal framework, but to encourage effective and consistent use of existing processes.

Next steps

The government will take forward a phased programme of work to develop the package of these measures. Government will engage and consult on the feasibility and scope of an IPO FRAND opinion service.

Court-anchored FRAND determination mechanism

The government has commenced work on this measure and will consider how such a pathway would operate in practice, including any procedural rule changes and the potential for a pilot scheme. Subject to the outcome of this work, the government will also work with the judiciary.

FRAND licensing guidelines

Once government has greater clarity on the options, it will look to develop non-binding FRAND licensing guidelines working with stakeholders across the SEPs ecosystem. These will aim to set out clear, high-level expectations for engaging with the proposed measures.

IPO-led FRAND opinion service

The IPO will look to engage and consult stakeholders this Autumn to assess the feasibility of a potential FRAND opinion service. Subject to the outcome, the government will consider whether and how to implement the service, including any pilot arrangements or legislative underpinning.

Consultation part 1:2 - Searchable standard related patent information

What the government asked

SDOs have different practices concerning the level of information required by the SDO, with data on SEPs being scattered across many sources. SDO databases rely on self-declaration and are not subject to independent verification of essentiality. Variations in disclosure practices and reliance on voluntary updates can limit the reliability and consistency of the data. Not all SDOs have accessible databases capturing declaration or disclosure. This can make it difficult for licensees, particularly SMEs, to determine which SEPs they need to license.

The government asked for views on what information rightsholders might be expected to disclose, as well as the possibility of mandating disclosure.

Questions asked

Question 14

In your view, would this proposal meet the government's aims of increasing transparency and reducing information asymmetry? Please explain why.

Question 15

How should the government provide legal certainty for users on what is in scope of this proposed mandatory requirement (e.g., specific provisions enshrined in law outlining when the requirement to provide information is triggered or what is excluded from the requirement)?

Question 16

What standard related patents information should rightsholders be required to submit to the IPO to build a useful data set (e.g. technical specification or standard the patent relates to, FRAND commitment, availability of licences)?

Question 17

Are there alternative mechanisms or routes that might more easily achieve the government's objectives of increasing transparency and reducing information asymmetry?

What government heard

Implementers generally agreed with the government that data is scattered across various sources and that databases are often incomplete, inconsistent, or reliant on self-declarations of essentiality.

Most implementers supported comprehensive disclosure of standard related patent information. Some of them advocated for independent essentiality verification and highlighted the need for accurate and regularly updated data. SME implementers in particular noted that better access to reliable patent information could reduce uncertainty,

support planning and budgeting, and lower due diligence costs.

Large companies based outside the UK raised concerns about detailed disclosure requirements for SMEs. They questioned the practicality and relevance of disclosure requirements. Excessive or non-essential information could confuse SMEs. This includes patents that are difficult to assess for relevance or true essentiality. They suggested this may discourage SMEs from adopting standardised technologies.

There was broad support, particularly among implementers and SME trade associations, for a centralised, searchable register operated by the IPO. However, some respondents, mainly those based outside of the UK, raised concerns that a UK-only database could create new challenges, particularly for global licensing activities, and risk further fragmenting the international SEPs ecosystem.

With regard to mandatory disclosure, there was a strong consensus across rightsholders and implementers on the importance of legal certainty, with calls for clear statutory frameworks and objective triggers to define scope and timing.

Many rightsholders cautioned against imposing disproportionate burdens, highlighting risks of over-declaration and the administrative complexity that might be involved in compliance. There were suggestions that information requirements should be restricted to what is normally used in licensing practices and for the IPO to provide comprehensive guidance clearly setting out what information rightsholders should submit.

A significant proportion of respondents, including a number of European and American companies from a diverse range of industry sectors and sizes, favoured greater international cooperation, suggesting that improvements to SEP transparency should be pursued through engagement with international patent offices and SDOs. There was moderate support from large companies and patent pool providers for leveraging existing databases and patent pools, rather than establishing national systems.

Question 18

What sanctions should the government consider introducing to deal with non-compliance issues (e.g. invalidity, enforceability, public listing of non-compliant patent owners, fines, administrative fines)?

Question 19

How should the IPO ensure information is supplied accurately by the rightsholder (e.g. penalties, incentives such as reduced fees)?

Views were mixed regarding the introduction of sanctions for non-compliance. While large implementers and trade associations supported measures such as unenforceability of patents, administrative fines and public listing of non-compliant rightsholders, others advocated for incentives, such as reduced fees or public listing of compliant rightsholders. A significant number of rightsholders questioned the appropriateness of a sanction regime.

There was broad consensus between rightsholders and implementers that any sanctions regime should be proportionate, flexible and mindful of general uncertainty in essentiality. Respondents also highlighted the importance of reliable administrative support, monitoring, and guidance to ensure data quality.

Government response

Government found compelling evidence that standard related patent information is currently fragmented, inconsistent and difficult to use. Information is spread across multiple sources, with variations in format, completeness and reliability. This can make it difficult for implementers, particularly SMEs, to identify the SEPs relevant to their technologies and make informed decisions about licensing.

Some respondents raised concerns that disclosure requirements could create cost and administrative burdens for rightsholders. However, this evidence was limited. Respondents did not provide substantive or verifiable information on the likely scale of costs, the activities driving them, or how they would vary across rightsholders.

The government is aware of international initiatives to improve access to standard related patent information, including WIPO's PATENTSCOPE and the EPO's Patent Standards Explorer. WIPO has recently expanded PATENTSCOPE to include standard essentiality verification information provided by patent pools. The service also includes patents declared essential to standards adopted by ETSI, IEEE and ITU. The EPO Patent Standards Explorer provides an online search service linking patents to standards-related information, including cited SDO documents and declared SEPs. However, while these initiatives are valuable, they do not fully address the issues identified by respondents. Data remains fragmented and self-declarations can be incomplete.

The consultation evidence ranged from opinions and anecdotal examples to, in some cases, reliable data, and was not always neutral or representative. However, respondents consistently identified barriers to accessing and using standard related patent information. In this context, evidence on fragmentation, inconsistency and usability was a decisive factor in assessing whether further provision would support the policy objectives.

The government believes the evidence supports the provision of standard related patent information to the IPO on a voluntary basis. This will allow a single point of access through the IPO's One IPO search service. Rightsholders will be asked to provide standard related patent information at grant, and EP(UK) patents at the renewal stage. Provision will not be retrospective and will relate to future standards only. Provision of information to the IPO will not involve verification or validation of essentiality.

To prevent information overload and unnecessary burden, reporting will be limited to information already used in licensing practices. The government will work with industry to agree what information can reasonably be provided, balancing burdens on rightsholders with benefits to implementers.

This voluntary provision of standard related patent information will not compete with declarations made to SDOs. This provision will apply at a later stage, when standards are more likely to be finalised. The government recognises the importance of coordination and where possible, alignment with international databases such as WIPO's PATENTSCOPE and EPO's Patent Standards Explorer. These international databases play a crucial role, and the IPO is already engaging with WIPO and EPO on these matters. The IPO will continue to work closely with WIPO, EPO, and SDOs to ensure that any UK provision can complement and build on international offerings.

Voluntary provision is expected to improve transparency and accountability, and support trust in the SEP ecosystem. If future evaluation shows significant non-compliance, the government will consider whether mandatory disclosure or sanctions are justified.

Next steps

Implementing this measure may require legislation, in order to provide both certainty and a framework for what standard related patent information rightsholders should provide. If legislating, the timetable for implementation will turn on the availability of an appropriate legislative vehicle. The IPO will work with industry on what information rightsholders should provide.

Consultation part 2:1 - Assessing the need for a specialist SEP pre-action protocol

What government asked

The government asked whether existing pre-action conduct and protocols within the Civil Procedure Rules (CPR) are effective in encouraging early information exchange in SEP licensing disputes. And if not, whether a specialist SEP-specific pre-action protocol could improve this.

Questions asked

Question 20

In your view, do the general pre-action protocols laid out in the Civil Procedure Rules encourage sufficient information exchange to reduce the need for litigation, including on SEP pricing and essentiality?

Question 21

Are you aware of any instances where pre-action protocols are ineffective or not adhered to, either generally or specifically in SEP disputes?

Question 22

Do you think the introduction of a SEP specialist pre-action protocol would address information asymmetry on pricing and essentiality by providing clear expectations on information exchange at an early stage?

Question 23

In your view, what should be included in any specialist SEP pre-action protocols to facilitate early disclosure of significant SEP information (e.g. claim charts, standard and version, essentiality data, how the FRAND rate was arrived at)?

What government heard

The evidence provided by respondents was primarily experiential and practice-based, drawing on direct involvement in SEP licensing and litigation rather than formal empirical studies. Respondents cited real-world negotiation dynamics on limited pre-action disclosure, tactical behaviour, and reliance on litigation to obtain information, as the basis for their views.

The consultation evidence was qualitative rather than quantifiable, and respondent counts reflect recurring themes rather than a representative sample or consensus on a single policy outcome.

Many respondents supported, or conditionally supported, a more structured and SEP

specific approach to pre-action conduct. Responses did not show a clear holder/implementer divide on the need for more structured pre-action conduct. Respondents across the ecosystem repeatedly indicated that current general protocols do not provide sufficiently early, balanced and meaningful information exchange in SEP disputes.

Where respondents supported a specialist protocol, the strongest recurring design ask was for a narrowly scoped and proportionate framework. This should include reciprocal expectations on both rightsholders and implementers, supported by meaningful consequences for non-compliance. Respondents repeatedly stressed the importance of confidentiality protections for commercially sensitive material and of practical enforcement levers, so that pre-action behaviour would matter in practice. Many respondents emphasised that any approach should align with the *Huawei v ZTE* principles. This framework, established by the Court of Justice of the European Union, sets out steps for negotiating FRAND licences in good faith before seeking an injunction. They pointed to other established international practices, reflecting concerns that a UK protocol could create friction in global licensing negotiations or encourage parallel proceedings abroad.

At the same time, respondents also expressed caution about an overly prescriptive approach. A significant concern was that complex or rigid pre-litigation requirements could impose disproportionate burdens, particularly on SMEs, increase complexity, and encourage tactical behaviour or forum shopping.

A minority of respondents maintained that existing pre-action processes; case law; market-based solutions; and guidance-led approaches were sufficient and saw no case for introducing a specialist SEP protocol.

Government response

The recurrence of similar issues across different respondent types (including large companies, SMEs, and other stakeholders) provides a coherent and credible signal of systemic challenges, particularly around information asymmetry and limited early disclosure.

Across the evidence there is a strong and consistent evidential thread that existing general pre-action protocols are not well suited to SEP disputes. Respondents said that they are too high-level and insufficiently tailored to the technical and economic characteristics of FRAND negotiations. Current protocols do not always secure sufficiently early and meaningful exchange of information in SEP licensing disputes. In particular, the evidence points to continuing information asymmetries that can escalate disputes into litigation.

The evidence also shows divergence on what kind of action government should take. While many supported a more structured framework, others are concerned about proportionality, enforceability, and international alignment. Government believes that this suggests that a narrowly scoped SEP-specific pre-action framework could clarify expectations for early conduct. It would not alter substantive rights or obligations. Government acknowledged the concerns over-prescriptive rules, enforceability, and maintaining international coherence. Any protocol should be proportionate, avoid unnecessary burdens, and complement (rather than conflict with) established case law and global practices.

Therefore, the evidence provides a sufficiently strong and consistent base of a problem for government to further its policy development and feasibility analysis on pre-action conduct. Any protocol would be developed as part of a coherent package and assessed alongside other measures, including the proposed court-anchored FRAND determination mechanism and FRAND licensing guidelines.

Next steps

The government will assess the feasibility of a targeted SEP-specific pre-action approach within the existing civil procedure framework. This will include examining scope, proportionality and enforceability to address the evidence government received. This work will also align with other measures, including the FRAND licensing guidelines and the proposed court-anchored FRAND determination mechanism.

Consultation part 2:2 - Assessing the market provision of essentiality checking services

What government asked

The government recognises that there is a growing body of evidence pointing to the difficulty of implementers knowing which patents are truly essential to a standard. In turn, that leads to uncertainty whether a licence is needed and what the licensing obligations are.

Government consulted to better understand the demand for, and use of, essentiality checking services. In particular, the government sought evidence on how accessible commercial essentiality services are. Government also sought to establish whether there was a case for the government to introduce an essentiality opinion service.

Questions asked

Question 24

Have you used commercial essentiality services?

Question 25

If you have used commercial services to assess essentiality, what are your views on:

- accessibility (e.g. cost)?
- accuracy and reliability?
- how you used the data (e.g. for licensing negotiations, or valuation of a portfolio)?
- whether the services provide value for money?

Question 26

Are you a provider of commercial services?

Question 27

If you are a service provider, can you provide details on:

- services / packages you provide?
- methodologies you use to determine essentiality, or probability of essentiality?
- what you charge for your services, and whether you offer discounts for smaller users?
- how you ensure reliability of the data?
- your main clients (e.g. SEP holders/licensees/others)?

- what your services are used for (e.g. assessing the value of a whole portfolio, dispute resolution)?

What government heard

Respondents generally indicated that commercial essentiality services are being used in practice, particularly by larger businesses, with use more limited among smaller firms, SMEs and startups. Those who had used these services generally found them useful for negotiations and valuation. However, respondents noted that often they were not definitive on essentiality, because of varied methodologies being used. Government also heard that courts remain the only definitive arbiter on whether a patent is essential to a technical standard.

A number of respondents highlighted that cost remains a significant barrier, especially where detailed claim-level analysis is required. Views on value-for-money were mixed. An assessment of essentiality was more defensible for large portfolios and litigation, less so for SMEs, while independence, transparency, and sampling discipline were recurrent asks.

Opinions diverged on the maturity of AI/LLM-based (large language models), with some respondents seeing strong potential for reducing costs over time. However, many respondents felt human technical and legal expertise remained essential to any assessment (and that this remained the general approach in practice).

Commercial essentiality services providers said that a strong market already exists. Those services offered a range of services including portfolio assessments, claim-to-standard mapping, landscape reviews and analytical tools for negotiations and disputes. These providers described a variety of pricing models, methodologies and quality assurance measures, including expert review, sampling techniques and peer checking.

Question 28

Do you think there is value in a government-led essentiality review mechanism at the IPO?

Question 29

How could the government provide value for money, so affordable essentiality assessments are available?

Question 30

What do you anticipate the primary use of an IPO led essentiality checking service would be? Who would primarily make use of it and for what purpose?

Question 31

What other options could you suggest to provide cost-effective essentiality assessments for SMEs and startups?

Respondents generally asked for better access to affordable and reliable essentiality information. There was less alignment on whether this should be produced through a government-run service or through measures that improve transparency, quality and access across the existing market.

Some implementers saw value in a neutral public role if it could improve transparency, reduce information asymmetry and provide more affordable support (for SMEs and smaller implementers in particular). However, there was some scepticism about the demand for an IPO-led service. Additionally, there were concerns that a government-run mechanism would be expensive to establish, could duplicate or crowd out commercial services, entail significant costs. There were also concerns that such a service could create unintended effects in licensing negotiations or disputes.

There was clear convergence by respondents on the practical conditions needed to make essentiality assessments more useful and affordable. This includes the importance of transparent methodologies, sampling based on sound statistical methods, qualified and neutral assessors, and consistency in how outputs are presented and used.

Government heard that support for SMEs should focus on reducing cost barriers. That includes the use of voucher schemes, shared access models, tiered services or greater use of standardised evidence formats. Several respondents favoured lighter-touch alternatives to direct government provision. That included, accrediting or benchmarking commercial providers, improving guidance and signposting. Additionally, the government heard support for wider disclosure of essentiality-related information, or making better use of existing tools such as the IPO SEP Resource Hub.

Government response

The government agrees that uncertainty around essentiality can increase information asymmetry, raise transaction costs and make SEP licensing more difficult to navigate. These issues are of a greater concern for SMEs and less experienced implementers.

However, the consultation evidence does not establish a sufficiently clear case for an IPO-led essentiality checking service at this stage. There remains uncertainty over feasibility, delivery models and interaction with existing market provision. Such a service would also involve operational complexity and cost and could risk drawing government into a quasi-judicial role.

Such an approach may also generate a low uptake and unintended effects in licensing negotiations or disputes. The IPO will continue to monitor the need for an IPO-led service.

The government will instead focus on improving transparency, encouraging better-quality information, and supporting more informed use of existing services. This means the government will prioritise measures that complement, rather than replace, the existing market. In particular, the government will continue to engage with providers of commercial essentiality services, patent offices, SDOs and other stakeholders to encourage methodological clarity and usability of essentiality information. Government will explore setting out non-binding best practice principles for essentiality assessments and reporting, for example around claim-to-standard mapping, sampling approaches and assessor expertise.

Government will also consider how existing non-regulatory tools, including the SEP Resource Hub and related guidance, can better help businesses understand what essentiality assessments can and cannot show. Also, how such assessments may be used in negotiations, and where SMEs can access support more effectively.

The government's preferred approach to these issues should be read alongside the government's interventions on searchable standard-related patent information at the IPO, pre-action information exchange, FRAND guidance and non-regulatory support.

Next steps

The government will continue existing engagement with stakeholders and international partners on essentiality transparency and assessment practices. This will include monitoring developments in commercial services, AI-assisted tools, international databases and relevant overseas initiatives. Government will also consider whether further work is needed to improve access to essentiality information for SMEs, including through guidance, signposting, standardised evidence formats.

As the market and international landscape develop, the government will keep under review whether additional intervention is justified in future. For now, however, the government's view is that a proportionate transparency-led approach is preferable to establishing a new IPO essentiality service.

The government recognises linkages with the Competition Markets Authority's (CMA) ongoing work on SEPs and technology pools. It will continue to support the CMA in this work.

Consultation part 2:3 - Remedies and dispute resolution

What government asked

The government recognises that there are concerns that the remedies framework is not adequate for all parties who operate in the SEPs ecosystem.

The consultation sought evidence on the adequacy of existing remedies for SEP disputes. It also asked for evidence on injunctions and the threat of injunctions.

Questions asked

Question 32

Does the current patent framework provide adequate remedies for SEP litigation?

Question 33

How can bad behaviours in licensing negotiations be addressed or prevented?

Question 34

Has the threat of injunctions ever played a part in your SEP negotiations? YES/NO

Question 35

If you believe the threat of injunctions had an impact on your SEP negotiations, please explain what that impact was, providing appropriate data and evidence.

Question 36

Could the other proposals presented by the government in this consultation help deal with 'bad faith' behaviours, including the threat of injunctions?

What government heard

The responses illustrate a complex SEP dispute landscape, marked by distinct differences in experience between rightsholders and implementers, and between large organisations and SMEs.

Many large rightsholders across a range of sectors and trade associations felt the UK generally provides suitable legal remedies. They valued the stability and judicial independence it offers, with injunctions being neither automatic nor common and subject to strict judicial scrutiny.

Common SME challenges caused by SEP licensing negotiation behaviours which were raised included, high legal costs, limited transparency, and weaker negotiating power. Implementer respondents from a range of industry sectors and company sizes raised these issues.

In particular, some SME implementers, large ICT companies and trade associations voiced concerns over the availability, use and threat of injunctions in SEP disputes. These respondents argued that the availability of such injunctions can disproportionately pressure smaller firms to accept supra-FRAND licensing terms. They advocated for restricting injunctions, especially when implementers are negotiating in good faith and called for clearer guidance to protect SME interests. However, although implementers provided largely anecdotal evidence of injunction threats during negotiations, there was general agreement that the actual issuance of injunctions by courts disrupting UK market access was rare. Also, whilst implementers generally saw an injunction threat during negotiations as an example of bad faith behaviour, some rightsholders said that, when used, those threats were justified to deal with instances of deliberate hold out.

Rightsholders and implementers of various sizes across industries widely supported the concept of encouraging good faith negotiations and transparency in SEP licensing. Many welcomed the idea of government issuing guidance to clarify expectations and promote fair conduct, particularly for the benefit of SMEs. However, a portion said that over-prescriptive guidance could harm the UK's reputation as a venue for SEP disputes.

Government response

The government believes that the current frameworks remain broadly adequate in respect of SEP disputes.

The UK's approach, where the grant of an injunction is only available after careful judicial scrutiny and where implementers are found unwilling to accept court determined FRAND terms, is internationally respected and provides necessary flexibility and proportionality. The evidence received throughout the responses demonstrated strong divergence of views on the threat of injunctions during licence negotiations. The examples used by implementers to illustrate such use were largely anecdotal and were balanced by evidence from some rightsholders that they were justifiably used. The government does not consider the evidence supports the case for legislative changes to limit the availability of injunctions.

The government recognises the concerns raised regarding 'bad-faith' negotiation tactics and the challenges faced by SMEs. A recurring theme in the responses was the need for increased transparency, timely disclosure of relevant information, and clear expectations for good faith conduct in SEP licensing negotiations.

To address these issues, the government will look to develop SEP licensing guidance with industry. This guidance will suggest how rightsholders and implementers should act transparently and promptly in negotiations to encourage good faith negotiation and fair conduct.

The other interventions set out in the consultation, in addition to the guidance, should help deal with bad faith injunction threats during licensing negotiations, where they exist.

Next steps

The IPO expects to commence development of SEP licensing negotiation guidance promptly. Any guidance that is developed will address issues regarding 'bad faith' negotiation tactics and that it provides the necessary support for business, specifically SMEs, in SEP licensing. This will be supported by a technical working group, including relevant industry and legal services.

Consultation Part 2:4 - Alternative Dispute Resolution (ADR)

What government asked

Litigation in the UK can be lengthy, involve multiple trials, and incur high costs. Existing evidence pointed to lower-than-expected use of alternative dispute resolution (ADR) to resolve SEP licensing disputes.

Government consulted to assess whether existing ADR services are used and continue to be effective in SEP disputes. Government also sought views on whether government intervention is needed to enable quicker, more efficient dispute resolution, including for smaller businesses, in light of concerns about slow and costly court processes.

Questions asked

Question 37

How aware are you of ADR services available to resolve SEP licensing disputes?

Question 38

Have you used ADR services to resolve a SEP dispute? Please explain your answer.

Question 39

What barriers, if any, have affected your ability to use ADR services to resolve a SEP dispute?

Question 40

Are you an ADR provider? If so, could you explain your experience of dealing with SEP disputes within your services.

Question 41

In your view, is there a need for the government to expand the IPO's mediation services to support businesses to resolve their SEP disputes, or are existing ADR services adequate?

What government heard

The evidence provided by respondents was mainly qualitative, experience-based, and perception-led, drawing on direct involvement in SEP licensing disputes, or advisory roles rather than formal empirical data. Some respondents (including a small number of large, globally active firms) reported direct experience of ADR. Many others provided indirect or second-hand observations of negotiation dynamics, barriers, and industry practice.

Those respondents who answered the ADR questions, awareness of existing ADR

mechanisms for SEP licensing disputes appeared relatively high. Respondents across the ecosystem broadly recognised that established ADR services already exist. Many respondents referred to established domestic and international providers, and the consultation did not show that the UK lacks accessible ADR services for SEP disputes.

There was no clear holder/implementer divide on availability of ADR services or on the fact that ADR is under used in SEP disputes. However, there was some variation by company size and role. Awareness appeared relatively high across company sizes among respondents. However, larger, globally active firms more often reported direct experience of using ADR than smaller or less experienced participants.

However, use was low for more complex or higher-value SEP disputes. The most common barriers related not to the existence of ADR services. They relate to how they are used, including confidentiality, lack of transparency, information asymmetry, uncertainty and strategic reluctance to engage. Cost and resource constraints were also raised, particularly in relation to smaller businesses.

Views diverged on the effectiveness of different ADR models. Some respondents with direct experience of mediation or arbitration described ADR as useful in principle. This was particularly where parties were willing to engage constructively, exchange information early, and narrow the issues in dispute. Other respondents questioned whether existing ADR processes are well suited to resolving SEP disputes in practice. Respondents who raised concerns about existing ADR processes pointed in particular to: limited predictability; insufficient technical confidence in how outcomes are reached; and a lack of decisiveness where parties' positions are entrenched. A recurring concern was that confidential ADR outcomes lack transparency, do not provide reasoned public guidance, and may limit usefulness beyond the individual dispute.

Government response

There is compelling evidence that respondents do not identify a lack of ADR services as the primary problem. Instead, the evidence consistently indicated that existing ADR provision was broadly sufficient, and that barriers to use arise from the wider conditions in which SEP disputes are conducted. It is for this reason that government will not establish a new standalone ADR mechanism for SEP disputes at this stage, nor expand the IPO's mediation service to include SEP disputes. The evidence indicates that the limited use of ADR in this area is driven less by any shortage of available services than by wider structural and behavioural factors. These factors include information asymmetry; confidentiality concerns; uncertainty over outcomes; and incentives on one or both parties not to engage. Respondents broadly recognised that ADR can play a useful role where parties are willing and able to engage constructively. The government therefore considers that ADR is best supported as part of its wider package of SEP measures, rather than through the creation of a new standalone service.

Next steps

The government will take a measured approach to improving how ADR is used in SEP disputes. It will focus on making it easier for parties to use ADR effectively and at an earlier stage. This will be developed as part of a coherent framework alongside the measures set out in the RDT section (1.1), including: improved information exchange; a clearer court-anchored pathway for FRAND determination; and FRAND licensing

guidelines to support more constructive engagement.

Government will also look to improve guidance and signposting to existing ADR options, maintain a neutral role, and support greater uptake through these related measures.

Current non-regulatory measures

What government asked

Government asked about non-regulatory measures to assess whether existing measures, including the SEP Resource Hub and international collaboration, continue to support the SEPs ecosystem. Government also sought views on what further non-regulatory action it could take to further its objectives.

Questions asked

Question 42

Do you think these non-regulatory measures are the right ones?

Question 43

Do you think there is more government can do in its non-regulatory work?

What government heard

The evidence provided was primarily qualitative and experience-based but demonstrated good engagement and clear thematic consistency across stakeholder groups. Respondents drew on practical experience of SEP licensing and negotiation, with a majority supporting the non-regulatory measures as useful initial steps, particularly in improving access to information and supporting SMEs.

Amongst those that expressed an opinion viewed the government's existing non-regulatory measures as helpful and proportionate initial steps to address issues in the SEPs ecosystem. Respondents also considered these should be further developed over time. At the same time, many implementers were concerned that non-regulatory measures alone would not achieve the government objectives and would be insufficient to address core challenges in the ecosystem. Rightsholders generally thought that non-regulatory measures alone could improve the functioning of the SEPs ecosystem, without the need for further regulatory intervention.

There was broad support among respondents, rightsholders and implementers alike, that the SEPs Resource Hub should continue to be used as an educational tool for those unfamiliar with SEP licensing, particularly SMEs. Respondents noted its role in improving understanding of SEP licensing and dispute resolution. Many respondents also suggested that the Hub should evolve over time to include more practical, user-focused guidance, examples and signposting. This should sit alongside continued efforts to raise awareness and understanding of SEP licensing among SMEs.

Respondents were generally supportive of the government's efforts on international collaboration through the Intergovernmental SEP Network (ISN) as a means of achieving greater transparency and reducing fragmentation across jurisdictions. The UK's leadership was welcomed by respondents in this area.

There was broad support from across the ecosystem that government engagement with SDOs on IPR policies could support ecosystem development and help reduce fragmentation across IPR approaches. Some rightsholders, however, stressed that such engagement should be approached carefully, remain balanced and be grounded in evidence, to avoid favouring particular interests or exacerbating existing challenges.

Government response

The government welcomes the broad support for the current non-regulatory measures and agrees that these provide a proportionate and useful means of addressing certain challenges within the SEPs ecosystem.

Government acknowledges the strong support for the SEP Resource Hub and its role in supporting UK businesses – particularly SMEs – in navigating SEP licensing. Government recognises the clear call from respondents for the Hub to evolve to include more practical, user-focused content, while remaining neutral.

The government also notes widespread support for continued international collaboration. Government agrees that engagement through forums such as the ISN is important in addressing the global nature of SEPs and supporting coordinated approaches.

On engagement with SDOs, government recognises both the potential benefits and the concerns raised. Government agrees that engagement must be carefully calibrated, evidence-based and maintain a balanced approach that reflects the interests of all parts of the ecosystem.

However, the evidence also consistently highlighted that these measures are insufficient on their own to address underlying issues such as information asymmetry and complexity in the ecosystem. Taken together, the evidence provides government with a clear mandate to progress and improve non-regulatory measures.

Next steps

The government intends to build on existing non-regulatory measures, alongside this broader package of measures, to further support stakeholders in navigating the SEPs ecosystem.

The government, through the IPO, is currently evaluating the SEPs Resource Hub to better understand UK business awareness, use and understanding of the guidance it contains.

In addition, the government will consider expanding the Hub, drawing on consultation evidence and outcome of evaluation, to provide additional non-binding guidance and materials on SEP licensing and dispute resolution.

Government will also consider providing further support for stakeholders, particularly SMEs, to increase their awareness of SEP licensing and technical standardisation.

Assessment of impacts

What government asked

Government asked questions to test the assumptions underpinning the consultation's initial impact assessment of the proposed RDT. Government also sought to improve evidence base for any future policy decisions. In particular, the government sought views on whether the consultation had appropriately captured set-up and running costs; the realism of assumptions relating to expert time and fees; impacts and potential savings. Government also invited respondents to identify any costs and benefits of the RDT. The government also asked for further evidence that the IPO should take into account to adequately assess the impact on innovation and the international implications of UK intervention in a global licensing environment.

Questions asked

Question 44:

Do you agree with the assumptions we have used in our assessment of the impacts? (Yes/No/Don't know)

If not, please explain why you did not agree with the assessment

Question 45

Are there any other significant costs or benefits that should be included? (Yes/No/Don't know)

If yes, what are they?

Question 46

Are you aware of any data or other information that could help us to quantify:

- the potential cost savings to businesses using RDT rather than the courts?
- the potential time and other efficiency savings from using RDT rather than courts?
- the benefits of reducing barriers to market entry through publishing rates determined by the RDT?

(Yes/No/Don't know)

If yes, what are they?

Question 47

Please supply any other information which you consider would be useful to help us assess the impacts of the options.

What government heard

Respondents generally did not express a single settled view on the overall merits of the proposals. There was a broad degree of agreement on a number of points. Many considered that the consultation's cost assumptions for an RDT were too optimistic, particularly in relation to expert fees, the time required for FRAND rate determination, and the likely complexity of cases. At the same time, a significant number of respondents considered that, if appropriately designed, a more streamlined mechanism could offer benefits through reduced litigation and transaction costs. This could lead to quicker resolution of disputes, greater predictability, and improved access for SMEs. Respondents generally also called for a broader and more complete assessment of impacts. This should include the interaction with existing court processes; appeal and administrative costs; potential effects on innovation incentives and standardisation; and the wider international consequences of UK action.

Government response

Government is grateful to all respondents who provided views on the assessment of impacts, particularly those who submitted detailed evidence and analysis. These responses have helped to identify where the assessment should take fuller account of costs, benefits and wider effects, including operational, legal, economic and international considerations.

Next steps

The government will take this evidence into account in considering next steps and in any future assessment of impacts associated with policy development in this area.

Annexes

Annex A – List of respondents

This is a list of respondents where responses were expressly made on behalf of an organisation. Organisations have not been included where it was not clear whether the response was made in a personal capacity or on behalf of an organisation.

- Access Advance
- Acer Incorporated
- ACT The App Association
- AIPPI
- Amazon UK
- American Intellectual Property Law Association (AIPLA)
- Apple
- Ask DT Ltd
- Augmented Solutions Ltd
- Avanci
- BBC
- BEAMA
- British Standards Institution (BSI)
- Canon
- Center for Intellectual Property (CIP)
- CIPA
- Computer & Communications Industry Association
- Council for Innovation Promotion (C4IP)
- Dell Technologies
- Dolby Laboratories, Inc
- Doro
- Ericsson
- European Automobile Manufacturers' Association (ACEA)
- European Centre for International Political Economy (ECIPE)
- European University Institute- Centre for a Digital Society
- Factoree Ltd
- Faileas Ltd
- Fair Standards Alliance (FSA)
- Fairphone
- Google
- Harfang IP
- Harlan Strategies LLC
- HDK Solutions Ltd
- HP, Inc
- Human Mobile Devices (HMD)
- Intellectual Property Bar Association (IPBA)
- Intellectual Property Subcommittee of the China Society of Automotive
- InterDigital Inc
- International Center for Law & Economics (ICLE)
- IP Europe
- IP Federation
- IP Mind Ltd
- Jaguar Land Rover

- Japan Automobile Manufacturers Association
- Lenovo
- Make UK
- Manulytica Ltd
- Mercedes Benz UK Limited
- Microsoft
- MtPrintPod
- N&M Consulting
- Nokia
- OpenUK
- PA Consulting
- Panasonic
- Patently Ltd
- Philips
- Pragmatic Semiconductor Ltd
- Qualcomm
- Research Network for Digital Ecosystem, Economic Policy and Innovation (Deep-In)
- Schneider Electric
- Sisvel International S.A.
- SME Safe Island Limited
- Technical University of Munich
- The Society of Motor Manufacturers and Trader Limited (SMMT)
- Tholos Foundation
- TL Tech Ltd
- Tunstall Healthcare
- Undisclosed DNA
- Veracity IP Consulting LLC
- Verband der Automobilindustrie.V. (VDA)
- V-Nova
- Vodafone
- Volkswagen AG
- WIPO Arbitration and Mediation Center
- WT-Consulting SAS
- WWWidgets Ltd

Annex B – Evidence and literature cited

Reports and supplementary evidence referred to in the government response can be made available on request to <seps@ipo.gov.uk>.

Annex C – Glossary

This section defines the terms used throughout the document.

Alternative Dispute Resolution (ADR)

Any method of resolving disputes outside of court litigation. Common ADR methods include mediation, arbitration, conciliation, negotiation, and early neutral evaluation (ENE).

Bad faith and good faith negotiations

Unlike some other jurisdictions, there is not a general enforceable, concept of good faith negotiations. The courts address bad faith indirectly through a set of doctrines, such as enforcing express good faith clauses, implying duties of honesty or rationality, and policing unfair conduct via rules on misrepresentation, estoppel and other common law principles.

Civil Procedure Rules (CPR)

The [Civil Procedure Rules \(CPR\)](#) are the legal procedural code that governs how civil disputes are managed and heard in the courts of England and Wales, with the overriding objective of enabling cases to be dealt with justly and at a proportionate cost.

Claim chart and claim-to-standard mapping

A structured comparison that maps each patent claim to corresponding parts of a standard to show if, and how, the patent is essential to implementation.

Comparables and comparable licences

Comparable licences are real-world licence agreements for similar patent portfolios, or between similarly situated parties that are used as evidence to inform the Courts if royalty rates would be fair and reasonable

Cross-jurisdictional disputes and parallel litigation

Situations where the same or closely related dispute is pursued in multiple courts or legal for a (often in different countries) at the same time, typically involving the same parties or issues and creating a risk of overlapping proceedings and inconsistent outcomes.

Declaration

A patent holder's formal commitment (usually made to an SDO) to make their patent available for implementing a standard (for example, by offering licences FRAND terms).

Disclosure

Disclosure is the legal duty to make all relevant documents available to the other parties in litigation, whether they support or undermine a case, to ensure fairness and transparency in legal proceedings. Rules may vary across Scotland, England and Wales, and Northern Ireland. In standard development and SEPs, 'disclosure' often refers to information an SDO about patents that may be essential to the implementation of a standard.

Due diligence

In IP licensing it involves the investigation into IP assets to confirm the IP exists, is owned by the right entity and is enforceable.

Early Neutral Evaluation (ENE)

In England and Wales Courts, ENE is a form of alternative dispute resolution where an independent adjudicator reviews the matters and provides a non-binding opinion. In the case of SEPs it refers to judicial ENE where the evaluator may be a judge.

Enforceability and unenforceability

Enforceability is the extent to which a legal right or obligation (such as a patent or contract term) can be upheld and given effect through courts or other legal mechanisms.

EPO

European Patent Office.

Essentiality

In the context of SEPs, the condition of a patent being essential to a standard – meaning the standard cannot be implemented without using the patented technology. If a patent is essential, it is a standard essential patent (SEP).

Fair, Reasonable and Non-Discriminatory (FRAND)

A widely used term (not formally defined in law) referring to licensing terms and negotiation conduct that are fair to both parties, reasonable in scope and price, and non-discriminatory (i.e. offered even-handedly to similarly situated licensees). SEP holders often give FRAND commitments, as part of their SDO declaration, to license their essential patents on this basis.

Forum shopping

The practice of selecting a court of jurisdiction from among those available to enforce a right, in order to obtain the most favourable legal outcome.

Hold-out

The practice where an implementer unreasonably refuses or delays taking a licence for SEPs – for example, to avoid paying royalties or to pressure the SEP holder into a lower fee.

Hold-up

The practice where a SEP holder exploits the standard's adoption by demanding an excessive licence fee (above what would be considered fair or reasonable).

Implementer

A company or entity that makes products or services compliant with a technical standard, thereby using the technology covered by one or more SEPs (often by taking a licence to those patents).

Information asymmetry

A situation where one party in a transaction has more or better information than the other, which can affect decision-making and outcomes.

Injunction

A court order that requires a party either to do something or to refrain from doing something. In SEP disputes, a patent owner may seek an injunction to prevent an implementer from using the patented technology without a licence.

Intellectual Property Enterprise Court (IPEC)

A specialist England and Wales court within the High Court that provides a faster, simpler and lower-cost route for resolving intellectual property disputes, particularly suited to smaller or less complex cases.

Intellectual Property Rights (IPR)

A legal right that gives creators or owners control over the use of their original ideas, inventions, or works, and allows them to prevent others from using them without permission.

Intergovernmental SEP Network (ISN)

A forum for governments to coordinate internationally on standard essential patent (SEP) policy, including sharing experience and improving coordination across jurisdictions.

Interoperability (in the context of SEPs)

The principle that technologies implementing a standard can work together seamlessly, meaning products from different manufacturers can communicate, connect and function with each other because they use common standardised (and often patented) technologies.

JPO

Japan Patent Office.

Mandatory disclosure

A legally imposed, proactive duty to disclose specified information.

Market-led solutions

An approach where outcomes are driven primarily by market participants (e.g. firms and stakeholders) acting through competition, incentives and commercial negotiations, rather than being mandated or determined by government regulation.

Non-binding

In UK law, non-binding means an agreement, statement, or document that lacks legal force and cannot be enforced by a court. It expresses a mutual intent or commercial plan rather than a legal duty.

Patent Pool

A licensing arrangement where two or more patent owners agree to license some or all of their patents as a package (often through a joint licensing programme or administrator). Patent pools are common for SEPs to offer implementers “one-stop” access to multiple essential patents.

Patent Standards Explorer

A tool within EPO’s patent information services that helps users identify and explore links between patents and technical standards.

PATENTSCOPE

Free global patent search database, which provides access to international (PCT) patent applications and patent documents from multiple national and regional patent offices in a single platform.

Portfolio and portfolio valuation

Portfolio: collection of related assets held by an entity, such as a set of patents (a patent portfolio) which together represent a body of economic or strategic value.

Portfolio valuation: the process of assessing the total economic value of all assets within a portfolio, such as a group of patents, by considering factors like market conditions, costs, and expected future income.

Pre-action protocol

Pre-action protocol is a set of procedural requirements under the Civil Procedure Rules (CPR) that parties are expected to follow before starting court proceedings, aimed at ensuring early exchange of information, clarifying the issues in dispute, and promoting settlement without litigation.

Primary legislation

Refers to laws enacted directly by the UK’s legislatures (primarily Acts of Parliament), which set out the main legal rules and principles and form the highest level of domestic law.

Rate Determination Track (RDT)

A rate determination track is a proposed mechanism to allow courts or a dedicated forum to focus primarily on setting FRAND licensing terms, helping parties resolve pricing disputes more quickly and potentially reducing the need for parallel or full infringement proceedings.

SEP holder

An entity (often a patent owner or inventor) that owns one or more SEPs. Often SEP holders will then license, or offer to license, in furtherance of any commitment they make to an SDO.

Standard Development Organisation (SDO)

An organisation that develops, maintains, or publishes technical standards with input from industry and other experts. Also known as a Standard Setting Organisation (SSO), an SDO typically requires members to disclose potential SEPs and commit to FRAND licensing.

Standard Essential Patent (SEP)

A patent that protects technology essential to implementing a specific technical standard. In practice, implementing the standard would necessarily infringe that patent. Many SDOs require SEP holders to license these patents on FRAND terms.

Standardisation

The collaborative process of developing agreed technical standards that define how technologies work and interact, enabling interoperability between products and services owned by different brands or companies.

Statutory and non-statutory

Statutory: established or required by legislation

Non-statutory: not established by legislation and generally not legally binding.

Supra-FRAND

Terms or royalties that exceed the level considered to be FRAND.

Top-down methodology

A method for determining FRAND licence terms that starts by estimating the total (aggregate) royalty for all SEPs covering a standard and then allocates a proportion of that total to an individual patent holder.

Transparency

The availability of clear, accessible and reliable information about standard essential patents, such as which patents are essential, who owns them, and the terms on which they are licensed, to enable informed and efficient FRAND licensing negotiations.

WIPO

World Intellectual Property Organization.

For further information, contact details and to request a different format, please visit the IPO website:

www.gov.uk/ipo

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