

Competition in Professional Services

architects

The Competition Authority is undertaking a study across a range of eight professions in the construction, legal and medical sectors of the Irish economy. The specific professions being reviewed are engineers, architects, dentists, optometrists, veterinary surgeons, medical practitioners, solicitors and barristers

March 2006



The Competition Authority
An tÚdarás Iomaíochta

EXECUTIVE SUMMARY

The Competition Authority has only a small number of concerns about how the architectural profession operates in Ireland. Unlike some other professions reviewed by the Competition Authority, architects are not restricted by layers of unjustified or disproportionate restrictions on competition. Competition seems to be working well for consumers of architectural services and the economy as a whole. Where the Competition Authority has identified unnecessary or disproportionate rules or restrictions, the Royal Institute of the Architects of Ireland (RIAI) has been proactive in addressing the Authority's concerns.

However, the Competition Authority is concerned that proposed changes in how the architectural profession is regulated in Ireland will have negative consequences for consumers and for some members of the profession. These changes are proposed in the Building Control Bill 2005. The Competition Authority is particularly concerned about the level of influence and control given to the RIAI over the system which determines who can be called an architect. The RIAI represents the vast majority of architects in Ireland.

If these proposals are implemented they will establish in law a conflict of interest where the RIAI will represent the interests of its members while at the same time be responsible for the rules and practices which are designed to protect the public interest.

The Competition Authority is proposing the establishment of an Architects Council of Ireland. This would be an independent, transparent and accountable body to regulate the architectural profession. The establishment of an independent system would bring the regulation of architects into line with other professions in Ireland such as doctors and dentists and with other sectors of the economy such as financial services. In countries such as the UK, Australia, Finland and the Netherlands, the registration of architects is controlled by an independent body.

The Competition Authority is also concerned about the composition of the various boards and committees it is proposed will regulate the architectural profession. Appointments to these decision making bodies should not be made by the RIAI. The Competition Authority also recommends that a number of safeguards be put in place regarding the proposed Code of Professional Conduct.

Finally, the Competition Authority makes recommendations regarding the recognition of Irish architects in other EU countries and the broad scope of the reservation of title:

- Recognition of Irish architects abroad should be on the basis of their recognition on the register, and not on membership of a private representative body, the RIAI;
- The Building Control Bill 2005 makes it an offence to mislead the public by using the term architect "*either alone or in combination with any other words or letters, or name, title description, implying that the person is so registered*". The broad scope of this reservation of title could have the unintended effect of restricting other professions, such as "architectural technicians" and "landscape architects", from using these titles to describe their services. Only the title "architect" should be reserved.

Additional recommendations relate to the few remaining areas where the Competition Authority has identified that competition in architectural services is unnecessarily restricted:

- Eligibility to enter architectural competitions for public sector projects;
- The provision of Opinions on Compliance with Building Regulations;
- Requirements for professional indemnity insurance; and
- The need for flexibility in architectural education.

Practically-trained architects, who are not on a list of qualifying architects (known as “the Minister’s List”), are currently excluded from entering architectural competitions run by public bodies such as local authorities or the Office of Public Works. This list was established by the Minister for the Environment, Heritage and Local Government in 1996 and has not been amended since that date. Allowing such individuals to enter these architectural competitions will increase the pool of potential competitors and enable local authorities and taxpayers to reap the full benefits of competition by being able to choose from a wider variety of service providers.

Opinions on Compliance with Building Regulations are required by financial institutions in most cases where a borrower is raising finance for the purchase of a building. The Law Society’s list of those professionals suitable to provide Opinions on Compliance excludes practically-trained architects who are not on the Minister’s List but who may have sufficient ability to provide these Opinions. The Competition Authority recommends that the Law Society should re-evaluate its list in order to allow other competent individuals to provide Opinions on Compliance. This will offer greater choice to consumers and in some cases reduce their costs.

The Competition Authority recommends changes to the level of professional indemnity insurance for architectural practices required for public sector projects. Currently, Irish Public Bodies Mutual Insurances Limited (IPB) advises public bodies to require architectural practices to have indemnity insurance of €6.3 million irrespective of the type or value of the project. This high level of insurance excludes many small firms from providing services to public bodies. The Competition Authority recommends the use of a sliding scale of professional indemnity requirements based on the cost of the overall project. Such a sliding scale has already been developed by the Department of the Environment, Heritage and Local Government. Use of the sliding scale will allow smaller architectural practices to compete with larger practices without having to carry higher than necessary levels of insurance, thereby reducing their costs.

Finally, the Competition Authority recommends greater flexibility in architectural education through the provision of part-time and modular courses. Currently only full-time courses are on offer. Educational institutions should allow other relevant technical training to contribute towards an architectural qualification. These measures will allow individuals in related occupations to build on their qualifications and progress in the profession thereby ensuring an adequate supply of architects and increasing choice for consumers.

A number of the concerns identified by the Competition Authority in its preliminary report on the architects’ profession¹ have now been addressed.

- The rules of the RIAI which unnecessarily restricted advertising by architects were removed in May 2004;
- The RIAI no longer publishes information showing percentage fees for different project types. The only fee information now published by the RIAI is contained in an independent survey which includes information on percentage, fixed and time-based fees;
- There has been a significant increase in the number of architecture training places in Ireland with the opening of new schools of architecture in Waterford and Limerick in 2005. Another new school will open in Cork in 2006.

It is estimated that there are approximately 3,800 people providing architectural services in Ireland.² Individuals in related disciplines in the construction industry, such as engineers or builders, may also provide architectural services. Survey figures suggest that architects’ salaries typically range from around €40,000 to €80,000.³ Salaries within the public sector range from approximately €31,000 for an entry-level architect up to €116,000 for a Principal Architect.⁴ Owners of architectural practices may receive profits in addition to salary income.

1. Published in November 2003.

2. *Construction Industry Skills Monitoring Report*, Expert Group on Future Skills Needs, July 2003. See <http://www.skillsireland.ie/press/reports/index.html>

3. June 2003 figures compiled by Hays Montrose on www.hays.ie

4. These figures, for 2004 salaries, are presented by the RIAI on www.riai.ie The RIAI observes that salary levels within the Architect, Senior Architect, and Assistant Principal Architect salary ranges will vary according to differences in individuals’ qualifications and experience.

Recommendations

Recommendation 1:	Establish an independent Architects Council of Ireland
Details of Recommendation	By
The registration body should be independent of professional representation. This is best achieved by establishing an Architects Council with a majority of lay members as well as architect members to provide technical knowledge and market expertise.	Minister for the Environment, Heritage and Local Government
Recommendation 2:	Increase the independence of the boards and committees provided for in the Bill
Details of Recommendation	By
Amend Sections 10, 18, 20, 21 of the Building Control Bill 2005 (which refer respectively to the Admissions Board, the Technical Assessment Board, the Professional Conduct Committee and the Appeals Board), and also section 66, to provide that: (a) there will be a majority of ordinary committee members from outside the architectural profession; (b) a majority of ordinary committee members from outside the architectural profession shall be a quorum requirement; (c) chairpersons will be appointed directly by the Minister for the Environment, Heritage and Local Government; and (d) architectural representation on boards and committees shall be on the basis of election from the register of architects.	Minister for the Environment, Heritage and Local Government

Recommendation 3:	The Code of Conduct should be approved by the Professional Conduct Committee after a public consultation process and after consultation with the Competition Authority
Details of Recommendation	By
Amend Section 53 of the Building Control Bill 2005 to provide that: (a) the Professional Conduct Committee (rather than the RIAI) should draft or approve the Code of Conduct and any subsequent amendments; (b) the Code of Conduct, and any subsequent amendments should be subject to a public consultation process; and (c) when approving the Code of Conduct, or any subsequent amendments, the Professional Conduct Committee should consult the Competition Authority.	Minister for the Environment, Heritage and Local Government
Recommendation 4:	Recognition in Europe should require registration rather than RIAI membership
Details of Recommendation	By
The Minister for the Environment, Heritage and Local Government should, at the earliest opportunity, seek to amend EU Directive 2005/36/EC (Recognition of Professional Qualifications) to provide that the existing criteria (in Annex V) of " <i>membership</i> " or " <i>associate membership</i> " of the RIAI be replaced with " <i>registration</i> " by the regulatory body (either an independent body or, as proposed, the RIAI).	Minister for the Environment, Heritage and Local Government
Recommendation 5:	Amend Section 15 of the Building Control Bill 2005 to avoid unnecessary restrictions on non-architects
Details of Recommendation	By
(a) Amend Section 15 of the Bill to provide that it is illegal for anyone to use the title architect when they are not registered as such; and (b) Make an appropriate amendment to the description "<i>either alone or in combination with any other words or letters, or name, title or description</i>" to ensure that unrelated professions are not unnecessarily restricted.	Minister for the Environment, Heritage and Local Government

Recommendation 6:	Ensure all recognised architects can enter architectural competitions
Details of Recommendation	By
The Minister for the Environment, Heritage and Local Government should, within 12 months of this report and once every three years thereafter, review local authorities' administration of competitions to ensure that all recognised architects are able to enter competitions.	Minister for the Environment, Heritage and Local Government February 2007
Recommendation 7:	Re-evaluate the list of persons recognised for the purposes of Opinions on Compliance
Details of Recommendation	By
(a) Following the introduction of a registration system, the Law Society should amend its list of persons suitable to provide Opinions on Compliance to ensure that all registered architects are included; and	The Law Society Within three months of the establishment of a Register of Architects
(b) Pending the introduction of a system of statutory registration of the title "architect", the Law Society should re-evaluate its list of persons suitable to provide Opinions on Compliance with relevant planning and building regulations, with a view to including any individual with sufficient professional indemnity insurance.	The Law Society July 2006
Recommendation 8:	Promote and monitor the use of sliding scales of professional indemnity insurance requirements
Details of Recommendation	By
(a) Irish Public Bodies Mutual Insurances Limited should henceforth refer its clients to the sliding scale and guidelines produced by the Department of the Environment, Heritage and Local Government when advising them in relation to professional indemnity insurance for construction projects; and	Irish Public Bodies Mutual Insurances Limited April 2006
(b) The Department of the Environment, Heritage and Local Government should, within 12 months of this report and once every three years thereafter, review the use by local authorities of its sliding scale of professional indemnity insurance requirements for contracted architects.	The Department of the Environment, Heritage and Local Government March 2007

Recommendation 9:	Provide more flexible ways for training architects
Details of Recommendation	By
(a) The Higher Education Authority, together with educational institutions, should look at further ways of allowing the number of places for third level study of architecture to respond to market demand for graduates;	The Higher Education Authority Implemented September 2005
(b) Educational institutions providing architectural education should seek to enable the provision of part-time and modular courses in addition to the provision of full time courses; and	Educational institutions September 2007
(c) All educational institutions providing architectural education should allow for other relevant technical training to contribute towards a full architectural qualification.	Educational institutions September 2007
Recommendation 10:	Remove unnecessary restrictions on advertising
Details of Recommendation	By
Advertising restrictions of any of the professional bodies, including the RIAI, should be narrowly focused on false or misleading advertising rather than being overly prescriptive. All other restrictions on advertising should be removed.	The Royal Institute of the Architects of Ireland Implemented May 2004
Recommendation 11:	Cease the inclusion of actual percentage fees in draft contracts published by the Royal Institute of the Architects of Ireland
Details of Recommendation	By
The Royal Institute of the Architects of Ireland should cease the publication of actual percentage fees in draft contracts.	The Royal Institute of the Architects of Ireland Implemented 2004