

SUBMISSION TO THE COMPETITION AUTHORITY, 19 January 2004  
from Brian Montaut

Response to the Study of Competition in Professional Services in Ireland  
(Consultation Document 2 – Architects)  
Competition Authority (October 2003)

## INTRODUCTION

The following extract is from pp 7, 8 John Bull's Other Homes – Murray Frazer – Liverpool University Press, 1996. It gives an outline of the early years of the RIAI and shows that its "obsession with the idea of securing compulsory legal registration for the use of the title 'architect' " predates the establishment in Ireland of an academic route into architecture by some twenty years. The RIAI's determination to control the market for architectural services can be seen to have been of special importance even when its membership was around 100. It seems that success is nigh.

"The RIAI was formed in 1839. Membership stood at about 65 architects in the 1880s and this barely rose to around 100 members in the period just before the First World War. The business of the RIAI was riven from the turn of the century by a growing division with a splinter association in Belfast, The Ulster Society of Architects, and by a fruitless obsession with the idea of securing compulsory legal registration for the use of the title 'architect'.

In 1889 the RIAI introduced the RIBA professional examination, and then, after overcoming the objections of the English institute, began in 1905 to set its own equivalent entrance exam. By this point many Irish architects believed that professional salvation lay in the foundation of a university school of architecture on the academic Beaux-Arts model, as formulated in the USA and subsequently introduced to Britain at Liverpool University. A Chair of Architecture was duly established in 1909 at the new 'Catholic' institution of University College Dublin. However, this remained in reality only a professorship during the period of the first two incumbents, Sir Thomas Drew and William Scott. It was not until the mid-1920s that a proper architectural course can be said to have started."

The RIAI's arguments for control of the profession almost suggest that the practice of architecture commenced in 1839 and that the traditional route of practical training has brought forth no architects of distinction since that time.

Q1.

Practically-trained architects are prohibited from entering all competitions administered by the RIAI except as assistants to architects approved by the RIAI.

This bar prevents the market from judging the relative competence of non-approved and approved practitioners. RIAI members are prevented from entering competitions that would include practically-trained architects. Private, that is non-public and "non-conforming" competitions, have been abandoned through the direct intervention of the RIAI.

Q2.

I am unable to answer as I have been barred from all such competitions.

Q3.

It should be remembered that the Architects' Directive specifically avoids interference with the established forms of practice within the State.

Q4.

It is unlikely that any over-charging can be readily assessed. My experience is that buyers from all sectors are quite canny. I believe that the RIAI's scale of minimum charges did create unevenness, yet this did not, of itself, create a climate for super profits. It must be recognized that even apparently similar architectural projects can differ as to the resources needed. (A significant variable can be the demeanour of the client.)

The predominance of a single professional body that positively seeks the disenfranchisement of its competitors, represents a very significant 'market power'. However, I cannot point to how this alone might have resulted in over-charging or poor service by an individual practice. The absence of a published scale of charges does encourage a climate for enquiry and explanation.

Q5.

Membership of a professional body has become highly significant since the adoption of the Architects' Directive and the positive movement towards a registration system. Market perceptions have crystallized and practically-trained architects have been made insecure. The 'market power' of the RIAI seriously undermines the validity of both non-aligned practitioners and members of the alternative bodies.

Q6.

The Building Control Regulations provide an effective method for measuring safety standards. However, these are largely self-policing in practice and independent enforcement during construction is inadequate. Self-certification is inherently problematical. An improvement would be for the lending agencies to appoint the certifiers (this is the case in other jurisdictions) as many projects depend upon outside financing. There are practical difficulties associated with the obligation to obtain a Fire Safety Certificate prior to commencement of development. Such a certificate should also be obtainable upon completion, but prior to occupation.

Q7/8.

Historically, the construction industry has been a cyclical one. Thus it is difficult to decide on the numbers to be trained. I believe that the present shortfall is being successfully made-up by staff from overseas. (This benefits the profession and improves its service to the market). It is a mistake to measure the requirement for architects in the market by the demand for college places.

An increase of 45 places is hardly 'relatively limited' when there are but 105 places currently available. I suppose that other countries intake and employment levels can be used to arrive at a working number of places that should be provided.

The absence of both a part-time course in architecture and a mature entry system should be corrected (although the latter has become problematical because of the increasing difficulty in achieving the specific working experience). Furthermore, technical training should be permitted to contribute towards a qualification as an architect.

Q9.

A significant, and in some cases an insurmountable, barrier now exists for some practitioners in regard to certification. Under the established regime, this is an essential part of the service. The difficulties serve the RIAI but not the market.

Q10.

There is but one essential prerequisite for certification – the certifier must have suitable insurance in place to protect the buyer. Thus, insurers are the most appropriate body to determine who should be able to provide certificates. I have also suggested that certifiers should be appointed by the lending agency wherever this applies (Q6 above). Although I would prefer certification to be a duty of the State, independent, private certification is consistent with the aspiration for co-regulation.

Q11.

The question should be changed to "Is there evidence to support a need for €6.3M of professional indemnity insurance cover?" Put this way, the issue becomes one for insurers and normal commercial considerations would then be applied.

Q12/13/14.

Yes, insurance costs would certainly increase -if practices were able to obtain €6.3M cover (I understand from others that securing this is problematical). Buyers would be over-charged as the cover would typically apply to all the work of a practice and must be maintained, not until the practice ceases, but until the demise of the relevant partners! The market for project-by-project insurance should be strengthened. Also, a time limit for liability that is consistent with the risks and obligations and fees paid should be considered.

Q15.

Buyers need access to a regularised, impartial complaints procedure, which encompasses all practitioners. A complaints board needs to be independent and also needs to be perceived as independent by the community if its decisions are to be respected.

Distinctions may need to be made between harm to a particular buyer; harm to the profession (ie future buyers, consumers at large) and those breaches of the rules of a particular professional body which do not give rise to harm to buyers or consumers in general (internal regulations).

Decisions about such distinctions may affect the scope of internal regulations made by professional bodies.

An independent complaints board is necessary and a single board could encompass all the building professions. This would reduce costs, improve impartiality and, I suggest, be more effective than a board for complaints against architects alone. (I have previously made a similar suggestion in regard to the proposed Registration Board.)

Q16.

See earlier correspondence.

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