



EUROPEAN STARTUP ACT

Executive Summary

For the European Union, economically speaking, it is essential to create an entrepreneurial framework in which big ideas can thrive and grow. European SMEs already “produce 58% of EU GDP and account for 67% of all jobs in the private sector”¹ and there is still a great deal of room for improvement.

Whilst much is happening at the national level to encourage entrepreneurship, there is a need for greater action at the European level. At the European Young Innovators Forum (EYIF) we have illustrated the impact we would like to witness in the European entrepreneurial ecosystem in our Vision 2020:



In line with this vision and using our extensive knowledge of the European startup ecosystem, we hereby outline our recommendations to achieve a competitive entrepreneurial market:

1. Accessible Finance for Entrepreneurs

The European venture capital (VC) and lending markets have struggled since the 2008 financial crisis but have shown some signs of improvement in the last two years. However, there have been a number of sources which have supplemented these traditional markets, including alternative finance and European funding schemes. To encourage financial support for entrepreneurs, the EU must simplify regulation in the area of alternative finance and expand European programmes

¹ European Commission, ‘Memo: Proposal for a Directive on single-member private limited liability companies – frequently asked questions’ MEMO/14/274, Brussels (9 April 2014).

funding entrepreneurship, whilst encouraging foreign VC investment in Europe.

2. Simplified Startup Creation

From Member State to Member State there is a great deal of variance in terms of company types and registration procedures. This makes the creation of startups unnecessarily burdensome and can also create long-term difficulties in attracting investment. To remedy this the EU should accelerate the process of harmonisation in the field of company law with the end goal of creating a single European private company format which would act as the main vehicle for the incorporation of startups. This includes the harmonisation and digitalisation of registration procedures, the harmonisation of minimum capital requirements and simplification of the current VAT regime.

3. Entrepreneurial Exchange

There have been a number of efforts on the national level to attract foreign entrepreneurs and provide national entrepreneurs with experience from abroad. European action on this issue should be reinforced to support national measures and make them more efficient by, for example, the extension of the EU Blue Card to entrepreneurs. Policies should be pursued to encourage foreign entrepreneurs to relocate to Europe and encourage European entrepreneurs to gain experience elsewhere to improve their European businesses and enhance the innovation process.

4. E-Skills for all

Europe is still suffering from a major deficit in digital skills to support, in particular, growing digital startups. This is leading to unnecessary gaps in the job market which could be filled by the growing number of unemployed remaining in many Member States. The EU thus needs to continue to expand the campaign to equip the labour market with the necessary digital skills to fill these gaps.

5. Geo-Unblocking

In the provision of digital services, we are still far from the creation of a single market. Services continue to be confined to national borders and far too often consumers are unable to access content when they move from Member State to Member State. This is particularly true in the case of the audio-visual sector. To ensure these services are available as uniformly as possible, EYIF supports the position of the Commission taken in the Digital Single Market Strategy² to modernise copyright law and implement a European standard. EYIF also advocates, to complement this, a targeted competition policy ensuring the prohibition of agreements for licenses which prohibit sales of services outside licensed territories.

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Digital Market Strategy for Europe COM(2015) 192 final.

Introduction

According to the Innovation Union Scoreboard 2015³, “compared to last year innovation has not been improving” in the EU.⁴ This has been attributed, in part, to the reduction of ‘innovation activities’ and also, as a result of the delayed effects of the 2008 financial crisis:

“Decreasing shares of enterprises with innovation activities, a reduced activity in public-private interactions as measured by public-private co-publications and declining venture capital investments all signal a possible negative effect of the economic crisis on business activities”.⁵

For the European Union, economically speaking, it is essential to create an entrepreneurial framework in which big ideas can thrive and grow. European SMEs already “produce 58% of EU GDP and account for 67% of all jobs in the private sector”⁶ and there is still a great deal of room for improvement.

The OECD have emphasised the importance of the regulatory environment in fostering entrepreneurial activity:

“A combination of opportunity, capability and resources does not necessarily lead to entrepreneurship if opportunity costs ... and startup costs outweigh the potential benefits. The regulatory framework, taxes, regulations etc. is therefore a critical factor affecting countries’ entrepreneurial performance.”⁷

There is no doubt that regulation is an important factor in the creation of a strong European startup ecosystem. However, it is not the only relevant factor. As well as creating the right legal framework for companies to flourish, it is equally important to create an environment in which entrepreneurship is viewed as a positive career choice, rather than a last resort for those who have failed to find a position in established companies. Increasingly, it is also vital that every EU citizen is equipped with the e-skills required to remain competitive in an ever-digitalised economy.

The European Commission has demonstrated its awareness of these issues by creating the Entrepreneurship 2020 Action Plan⁸ as well as establishing funding

³ European Commission, ‘Innovation Union Scoreboard 2015: Executive Summary’ available at <http://www.kowi.de/Portaldata/2/Resources/fp/2015-IUS-Summary.pdf> accessed on 31/08/2015.

⁴ Ibid, p.3.

⁵ Ibid, p.4.

⁶ European Commission, ‘Memo: Proposal for a Directive on single-member private limited liability companies – frequently asked questions’ MEMO/14/274, Brussels (9 April 2014).

⁷ OECD, ‘Entrepreneurship at a Glance 2014’ [2014], OECD Publishing available at http://dx.doi.org/10.1787/entrepreneur_aag-2014-en accessed on 20/07/2015., p.86.

⁸ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS ENTREPRENEURSHIP 2020 ACTION PLAN Reigniting the entrepreneurial spirit in Europe, COM/2012/0795 final.

programmes for innovative startups, an example of which is the SME instrument.⁹ However, there are still many obstacles for entrepreneurs, tempering latent economic potential which could be realised through a more extensive policy programme.

Whilst a great deal is happening at the national level to encourage entrepreneurship, there is a need for greater action at the European level. The European Young Innovators Forum (EYIF), with our pan-European presence in the different European startup ecosystems and in cooperation with our community, outlines the following solutions to achieve a competitive entrepreneurial environment:

1. Accessible Finance for Entrepreneurs;
2. Simple Startup Creation;
3. Entrepreneurial Exchange;
4. E-Skills for all;
5. Geo-Unblocking

European economies still place the lowest social value on entrepreneurship of anywhere in the world.¹⁰ Furthermore, European entrepreneurs possess the greatest fear of failing in entrepreneurship.¹¹ A comprehensive strategy which addresses regulatory, social and educational factors can revert this trend and make Europe the most competitive European entrepreneurial ecosystem in the world.

The following document outlines some key facts regarding the European market and details the potential solutions to allow European entrepreneurs to develop in a competitive environment.

⁹ 'Horizon 2020, Dedicated SME Instrument Work Programmes 2014-2015' available at <http://ec.europa.eu/research/sme-techweb/pdf/SME%20Instrument%20in%20WP%202014-2015.pdf> accessed on 20/07/2015.

¹⁰ Global Entrepreneurship Monitor, 'Global Report 2014' [2014] available at <http://www.gemconsortium.org/report> accessed on 20/07/2015, p. 29-30.

¹¹ Ibid, p. 32-33.

1. Accessible Finance for Entrepreneurs

The European venture capital (VC) and lending markets have struggled since the 2008 financial crisis but have shown some signs of improvement in the last two years. However, there have been a number of sources which have supplemented these traditional markets, including alternative finance and European funding schemes. To encourage financial support for entrepreneurs, the EU must simplify regulation in the area of alternative finance and expand European programmes funding entrepreneurship, whilst encouraging foreign VC investment in Europe.

Facts

- The VC market in all European countries, understood as a percentage of GDP, is significantly smaller than in Israel, the US and, to a lesser extent, Canada.¹²
- The European VC market has failed to keep up with the development of the US market.¹³ Thus, not only does the US market already vastly outperform the European market, but the gap is continuing to grow.

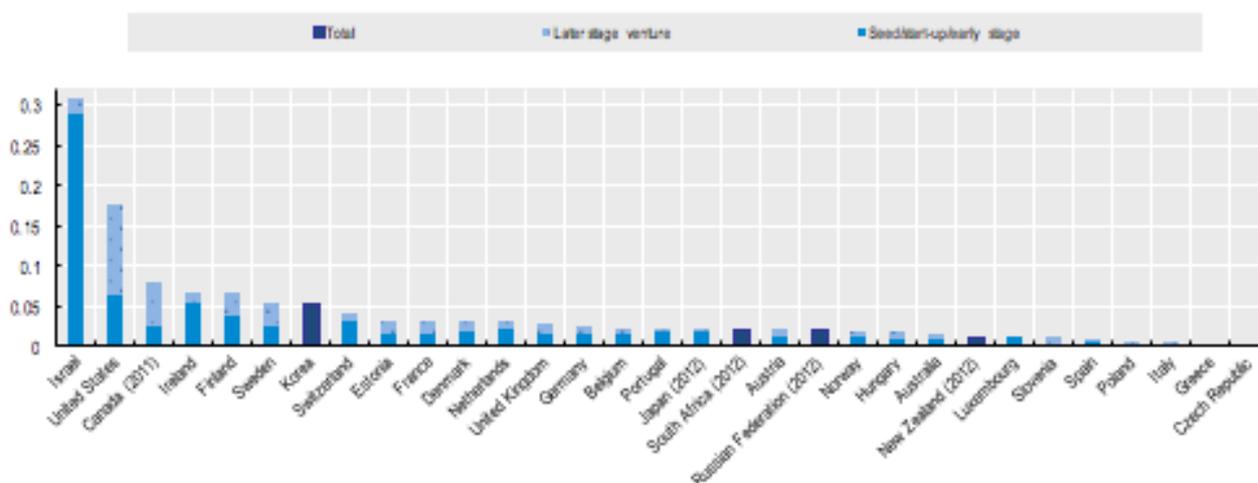


Figure 1.1 – Venture Capital Investments as a Percentage of GDP
Source: OECD (2014), Entrepreneurship at a Glance 2014, OECD Publishing.

- In the period between October 2014 and March 2015, SMEs have reported a greater need for sources of external finance, up 3% from the previous period.¹⁴
- Bank lending has declined since 2008 and has not recovered.¹⁵ Thus, SMEs are facing financial constraints resulting from the fact that they are “dependent on

¹² OECD, ‘Entrepreneurship at a Glance 2014’ [2014], OECD Publishing available at http://dx.doi.org/10/1787/entrepreneur_aag-2014-en accessed on 20/07/2015., p.23

¹³ Ibid.

¹⁴ European Central Bank, ‘Survey on the access to finance of enterprises in the euro area: October 2014 to March 2015’ published June 2015 available at https://www.ecb.europa.eu/pub/pdf/other/SAFE_website_report_2014H2.en.pdf?0b8b95ddc52c86145f91c8d2a566e3f8 accessed 31/08/2015, p.8.

bank lending because of their small scale, limiting their ability to efficiently overcome asymmetric information and to access to other forms of finance such as capital markets”.¹⁶

Action

1. Simplified Regulation of the Alternative Finance Market

National alternative finance markets¹⁷ have been booming in recent years, surpassing some traditional forms of investment. In the UK, for example the market has grown by an average of 155% in the past two years to a £1.74B industry.¹⁸ The European market for alternative finance raised close to €3billion in 2014 alone.¹⁹ “Including the UK, the overall European alternative industry is on track to grow beyond €7B in 2015 if the market fundamentals remain sound and growth continues apace”.²⁰ EYIF advocates regulatory simplification and harmonisation of the alternative finance market to encourage cross-border investment which is currently being hampered by regulation to increase the channels of finance available to entrepreneurs.

2. Expansion of Risk Guarantee Programmes to Foreign VC Investment

The European Investment Fund and European Investment Bank have managed a number of guarantee schemes operating within the borders of Europe to encourage investment from private actors. Examples include the InnovFin SME Guarantee Facility and the Risk Investment Instrument. However, these mechanisms remain available only to private actors located within the EU. In an attempt to kick-start the VC market, EYIF would like to see these risk guarantee programmes extended to investors from non-EU countries, in particular the US and China. This is a tried and tested strategy for attracting investment demonstrated most notably in the case of the Israel VC market. The OECD Observer recounts the example of Yozma:

“Yozma, has been credited with creating Israel’s vibrant venture capital industry. Founded with a budget of \$100 million in 1993, Yozma established 10 venture capital funds, contributing up to 40% towards the total capital investment. The rest was provided by foreign investors, who were attracted by risk guarantees. Nine of the 15 companies that received Yozma investment

¹⁵ European Investment Bank, ‘Unlocking Lending in Europe’ 10/2014 available at {http://www.eib.org/attachments/efs/economic_report_unlocking_lending_in_europe_en.pdf} accessed on 31/08/2015, p.3.

¹⁶ Ibid, p.4.

¹⁷ Alternative finance refers to mechanisms such as P2P lending, invoice trading and crowdfunding.

¹⁸ Nesta, 2014, ‘Understanding Alternative Finance: The UK Alternative Finance Industry Report 2014’ November 2014 available at {<https://www.nesta.org.uk/sites/default/files/understanding-alternative-finance-2014.pdf>} accessed 27/08/2015, p.12.

¹⁹ Robert Wardrop, Bryan Zhang, Raghavendra Rau and Mia Gray, ‘Moving Mainstream: The European Alternative Financing Benchmarking Report’ published February 2015 available at {http://www.jbs.cam.ac.uk/fileadmin/user_upload/research/centres/alternative-finance/downloads/2015-uk-alternative-finance-benchmarking-report.pdf} accessed on 01/09/2015. p.13.

²⁰ Ibid, p.9.

went public or were acquired. “In 1997 the government received its original investment with 50% interest and the funds were privatised,” recalls Ms Berry. A recent OECD report on innovation calls Yozma “the most successful and original programme in Israel’s relatively long history of innovation policy.”²¹

3. Expansion of Public Finance Initiatives Supporting Startups and SMEs

Initiatives such as the SME Instrument and the SME Initiative which have existed as part of the Horizon 2020 Programme have been successful with entrepreneurs as a mechanism to launch their ideas or fund their scale-up projects. To respond to the demand for finance which exists in relation to SMEs, EYIF would like to see these programmes expanded in the short/medium term by widening the scope of the grants being made, whilst at the same time increasing the number of grants being made. In the long-term, EYIF would also advocate an increase in the budget for such support. The benefits of these schemes have been demonstrated consistently, most prominently in the case of Israel.

In particular, EYIF would like to see the expansion of the Phase 3 segment of the SME Instrument in two particular ways. Firstly, we support the opening of the Phase 3 application procedure to non-beneficiaries of Phases 1 and 2 of the SME Instrument. Secondly, we advocate the optimisation of Phase 3 to include a co-financing scheme utilising capital from the European Investment Fund. For startups who have already attracted VC investment, it should be possible through Phase 3 to acquire co-financing from the EIF, after an EASME assessment.

Following the aforementioned policy lines would demonstrably improve the availability of finance for entrepreneurs and thus expand the potential of the European entrepreneurial ecosystem. In addition, the first measure would create an unparalleled market in alternative finance which has not yet been achieved anywhere in the world. Diversifying funding sources also removes the over-dependence on bank lending meaning the European entrepreneurial ecosystem would be better able to cope with the constraints on lending associated with a banking crises.

²¹ OECD Observer, ‘Start-up Nation: An Innovation Story’ available at http://www.oecdobserver.org/news/fullstory.php/aid/3546/Start-up_nation:_An_innovation_story.html accessed on 01/09/2015.

2. Simplified Startup Creation

From Member State to Member State there is a great deal of variance in terms of company types and registration procedures. This makes the creation of startups unnecessarily burdensome and can also create long-term difficulties in attracting investment. To remedy this the EU should accelerate the process of harmonisation in the field of company law with the end goal of creating a single European private company format which would act as the main vehicle for the incorporation of startups. This should include the harmonisation and digitalisation of registration procedures, the harmonisation of minimum capital requirements and the simplification of the current VAT regime.

Facts

- The number of procedures which entrepreneurs are required to complete to fully establish and operate in their chosen location averaged at 5.1 across Europe. However, there is a great deal of variation between countries with the lowest number of procedures required being 2 (Slovenia) and the highest number being 11 (Malta).²²
- In terms of the time taken to establish a company in the EU, on average, registration was completed within 11.6 days.²³ Again, the variance is significant with the fastest jurisdiction (Portugal) taking just 2.5 days and the slowest (Malta) taking 34.5 days.²⁴
- The cost of starting a business can also vary a great detail between Member States. The EU average cost for starting a business is 4.1% of income per capita. Looking at the extremes, the cost of starting a business can be up to 14.1% of income per capita in Italy and 0% in Slovenia.²⁵
- Discussions at the European level have been ongoing since 2008 in relation to the creation of a European private company form to resolve many of the aforementioned disparities. The initial 2008 proposal²⁶ was rejected and has been succeeded by a more recent proposal²⁷, aiming to remedy the concerns outlined in the previous legislative process.

²² "Doing Business 2015: European Union" co-published by the World Bank and International Finance Corporation, available at <http://www.doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Profiles/Regional/DB2015/DB15-European-Union.pdf> accessed on 27/08/2015, p.17.

²³ Ibid, p.17.

²⁴ Ibid.

²⁵ Ibid, p.18.

²⁶ Proposal for a Council Regulation on the Statute for a European Private Company COM(2008) 396/3

²⁷ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on single-member private limited liability companies COM/2014/0212 final – 2014/0120 (COD)

Action

1. Standardised Registration Procedure for all Private Companies

Whilst it remains the case that there is no European company form, the EU should promote the adoption of a single registration procedure which is consistent throughout Member States. Where possible this process should also be digitalised to increase the efficiency of the process of forming a startup.

2. Harmonised Minimum Capital Requirements

To ensure a minimum standard of protection for creditors and to simplify the choice for entrepreneurs, the EU should aim to harmonise the minimum capital requirements for private company forms. The aim of this measure should be to ensure a balance between protecting creditors and not making the process of incorporation overly burdensome.

3. Simplification of the VAT Rules for Startups

The 2015 changes to the way in which VAT is charged have created an unnecessary administrative burden on startups and entrepreneurs who want to trade in more than one Member State. EYIF supports the swift implementation of a threshold, below which an enterprise would not have to pay VAT in jurisdictions where their revenue does not exceed this threshold.

4. A Single European Private Company Type

The end goal of regulatory harmonisation should be the creation of a standard company vehicle, used by all entrepreneurs looking to incorporate. All steps should be taken in terms of harmonising company law to ensure this result is achieved. However, what should be avoided throughout this process is a race-to-the-bottom as we have witnessed elsewhere in the world. This point has been captured by the European Parliament. Marlene Mizzi MEP commented:

“... we must be careful not to encourage quantity at the cost of quality and find that companies who have been lured into cross-border activities because it had been made so easy, do not find themselves insolvent a few months later, leaving creditors and employees high and dry”.²⁸

These policy lines are aimed at achieving two key results. On the one hand, they will increase the efficiency in start-up creation meaning entrepreneurs can focus on innovation rather than being held up with administrative burdens. On the other hand, a harmonised company law structure will provide a greater certainty for investors as there will be significantly less variation in levels of protection between various Member States and in company structures.

²⁸ Marlene Mizzi, MEP, opinion rapporteur in the IMCO Committee commenting on the Proposal for a Directive on Single-Member Private Limited Liability Companies, reported by ACCA, ‘Societas Unius Personae (SUP): What’s in it for SMEs?’ 27/02/2015 accessed on 27/08/2015.

3. Entrepreneurial Exchange

There have been a number of efforts on the national level to both attract foreign entrepreneurs and provide national entrepreneurs with experience from abroad. The European action on this issue should be reinforced to support national measures and make them more efficient by, for example, the extension of the EU Blue Card to entrepreneurs. Policies should be pursued to, on the one hand, encourage foreign entrepreneurs to relocate to Europe and, on the other hand, encourage European entrepreneurs to gain experience elsewhere to improve their European businesses and enhance the innovation process.

Facts

- Taking the UK as an example of a country employing an entrepreneurial visa policy, between 2008 and 2014 applications saw an increase of 3400%. “This rise is officially described as “encouraging news” for the UK business scene: it encourages job and wealth creation, and is a positive indicator that the UK is still an attractive place to start a business”.²⁹
- “More than 40 percent of the Fortune 500 companies in 2010 were founded by an immigrant or the child of an immigrant”³⁰, according to the Kauffman Foundation. They added that in the US “[i]mmigrant founded engineering and technology firms employed approximately 560,000 workers and generated \$63 billion in sales in 2012”.³¹
- Research has shown that the adoption of a entrepreneurial visa policy can have highly positive effects on national innovation ecosystems: “Flexible and open immigration policies play an important foundational and support role in growing local pools of entrepreneurial talent, attracting innovative companies and creating entrepreneurial clusters”.³²

Action

1. Extend the EU Blue Card to Entrepreneurs

Given the success that many entrepreneurial visas have shown in recent years, particularly in the UK, EYIF supports the extension the EU Blue Card to

²⁹ Migreat, ‘UK Entrepreneur Visa Report: A UK Immigration System Open to Innovation and Promising Entrepreneurs’ published March 2014 available at <http://content2.migreat.com/reports/entrepreneur-report-by-migreat.pdf> accessed 31/07/2015, p.5.

³⁰ Dane Stangler & Jason Wiens, ‘The Economic Case for Welcoming Immigrant Entrepreneurs’ published 27/03/2015 available at <http://www.kauffman.org/what-we-do/resources/entrepreneurship-policy-digest/the-economic-case-for-welcoming-immigrant-entrepreneurs> accessed on 31/08/2015.

³¹ Ibid.

³² Josephine Goube, ‘Worldwide Startup Visa Policies Compared’ published 18/05/2015 available at <http://a.migreatstatic.com.s3.amazonaws.com/reports/Open%20Borders%20to%20Entrepreneurs.%20Migreat%20Report.%20May%202015.pdf> accessed on 31/08/2015, p.4.

entrepreneurs who meet a minimum standard of viability in terms of their business proposition. This can include, but is not limited to, a minimum level of guaranteed investment, an acquired European business partner and a viable 3-5 year financial forecast.

2. Expansion of Entrepreneur Exchange Programmes Beyond Europe

Erasmus for Young Entrepreneurs has achieved positive results for participants. An example of this is that “78% of the new entrepreneurs who created their company after the exchange consider that the programme contributed significantly to their ambition to set up a business”.³³ Given these positive results since 2009, EYIF advocates the expansion of the programme to include placements which extend beyond Europe, in particular to the Silicon Valley and China. As an addition to this is the creation of Innovation Centres in the main entrepreneurial innovation hubs in the world. EU entrepreneurs will have a reference point after arriving in these ecosystems enabling them to think global, be inspired by the local mindset and in some cases to tailor their growth strategy according to these experiences. In agreement with the US and Chinese authorities, these exchange programmes could be extended to bring their entrepreneurs to Europe.

These policies would attract a greater pool of talent to Europe from non-European countries as well as giving our entrepreneurs the experience they need in other markets to scale their businesses.

³³ Eurochambres, “5 Years of Erasmus for Young Entrepreneurs” 2014 available at http://ec.europa.eu/growth/smes/promoting-entrepreneurship/support/erasmus-young-entrepreneurs/index_en.htm accessed on 31/08/2015, p.8.

4. E-Skills for All

Europe is still suffering from a major deficit in digital skills to support, in particular, growing digital startups. This is leading to unnecessary gaps in the job market which could be filled by the growing number of unemployed remaining in many Member States. The EU therefore needs to continue to expand the campaign to equip the labour market with the necessary digital skills to fill these gaps.

Facts

- A forecast conducted in 2014 predicted that by 2020 the EU27 will have a deficit of between 750, 000 and 1.3 million IT professionals without intervention on the e-skills front.³⁴
- 18% of individuals aged 16 to 74 living in the EU28 have never used the internet, “whether at home, at work or from anywhere else and whether for private or professional purposes”.³⁵ There are vast regional discrepancies incorporated in this statistic from 3% in Denmark to 39% in Romania.³⁶
- “The three most important reasons for households not having internet access are that it is not needed (45%), due to a lack of skills (41%) and because the equipment (27%) and access (24%) costs are too high. In particular, lack of skills has gained substantially in importance over the last year”.³⁷
- “In 2014 32% of the EU labour force had an insufficient level of digital skills. 13% had no digital skills at all, as they did not use the internet. In 2012 the figures were 39% and 14%, respectively.”³⁸

Action

1. Expand the E-Skills for Jobs Programme

Clear progress is being made on the E-skills front and figures are consistently improving as demonstrated by the Digital Agenda Scoreboard. EYIF therefore advocates greater investment in the drive to equip the labour market with the digital skills they require to ensure the European workforce remains competitive. Key

³⁴ empirica Gesellschaft für Kommunikations- und Technologieforschung mbH, ‘e-Skills for Jobs in Europe: Measuring Progress and Moving Ahead’ 2014 available at http://www.digitaleurope.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=725&PortalId=0&TabId=353 accessed on 31/07/2015, p.8.

³⁵ Eurostat (2015) ‘Individuals who have never used the internet’, available at <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tin00093&plugin=1> accessed on 31/08/2015.

³⁶ Ibid.

³⁷ European Commission, ‘Human Capital: Digital Inclusion and Skills – Digital Agenda Scoreboard 2015’ available at <http://ec.europa.eu/digital-agenda/en/news/digital-agenda-scoreboard-2015-most-targets-reached-time-has-come-lift-digital-borders> accessed 31/07/2015, p.7.

³⁸ Ibid, p.9.

considerations should be the accessibility of training and also emphasis on those regions which still have digital aptitude well below the European average.

2. Emphasise the Benefits of the E-Skills Initiative to all Actors

Alongside the drive to equip the current workforce with digital skills, it is critical that we also instil the value of digital skills in the minds of our future workforce. The EU should therefore continue to emphasise the importance of incorporating digital skills programmes in national education curricula and develop a new e-skills programme tailored to entrepreneurial needs and lifestyles. Added to this should be a drive to encourage undergraduates to pursue degrees which incorporate digital skills training as a main component.

It is also critical that the benefits of European funds available are made clear to private actors who can contribute to the program. There are many private actors providing coding schools and IT workshops, for example, who are simply unaware of the funds they could benefit from. The support available at the EU level needs to be communicated more clearly to these parties.

The combination of these two policy measures will contribute to, on the one hand, making the EU labour market more competitive and, on the other hand, reducing the unemployment levels in a number of countries by providing the unemployed with the digital skills to allow them to fill vacant positions.

5. Geo-Unblocking

In the provision of digital services, we are still far from the creation of a single market. Services continue to be confined to national borders and far too often consumers are unable to access content when they move from Member State to Member State. This is particularly true in the case of the audio-visual sector. To ensure these services are available as uniformly as possible, EYIF supports the position of the Commission taken in the Digital Single Market Strategy³⁹ to modernise copyright law and implement a European standard. EYIF also advocates, to complement this, a targeted competition policy ensuring the prohibition of agreements for licenses which prohibit sales of services outside licensed territories.

Facts

- The fact that copyright remains an issue governed, mostly, by national law is creating problems for the European consumer. “The territorial limitation of copyright licenses within EU Member States (so-called territoriality) , allows copyright owners such as television broadcasters to prevent users from accessing material when they are based in another country (known as geo-blocking)”.⁴⁰
- A public consultation conducted in July 2014 indicated that “the vast majority of end user/consumer respondents report facing problems when trying to access online services in another EU country. They state that they are regularly confronted with access restrictions depending on the geographic location of their IP address”.⁴¹
- The same consultation found that “service providers distributing digital content point to the lack of information on content (such as who represents particular rights and for which territories) as a major problem for the clearance of rights and licensing in the single market”.⁴²

³⁹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Digital Market Strategy for Europe COM(2015) 192 final.

⁴⁰ European Parliamentary Research Service, ‘Briefing: The Challenges of Copyright in the EU’ June 2015 available at [http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/564380/EPRS_BRI\(2015\)564380_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/564380/EPRS_BRI(2015)564380_EN.pdf) accessed on 31/08/2015, p. 5.

⁴¹ European Commission, ‘Report on the responses to the Public Consultation on the Review of the EU Copyright Rules’, July 2014, available at http://ec.europa.eu/internal_market/consultations/2013/copyright-rules/docs/contributions/consultation-report_en.pdf}, accessed on 01/09/2015, p.6.

⁴² Ibid, p.10

- An ECJ decision in 2011⁴³ outlined that in the case of geo-blocking it is critical to take a broader approach. Free movement of services provisions and competition policy can also be enforced to prevent geo-blocking in some cases.

Action

1. Creation of a Single European Copyright Title

EYIF recognises that in the short and maybe even the medium term, the creation of a single framework for copyright to remove the aforementioned barriers will be a major contributor to opening up digital service markets. In view of creating such a framework, the Commission should identify the main problem areas in intellectual property for the provision of cross-border services and proceed with simplification of copyright laws, allowing startups to realise their full growth potential. Ensuring full portability of content will be one way to address this, among others. This will be critically important for cultural entrepreneurs who are looking to disseminate their content across borders in order to facilitate a cultural exchange are not, at present, afforded sufficient protection to do so.

2. Enforce Competition Rules in Relation to Copyright Licenses

There are many tools that remain under-utilised to remove the problem of geo-blocking. EYIF supports a strong position on enforcing competition policy against licensing agreements which restrict the use of those licenses to a confined territory. This policy is key to the supplementation of the new proposal on European copyright and can provide an immediate solution in some cases to the problem of geo-blocking.

Both of these policy approaches will contribute significantly to the creation of a digital single market by ensuring that startups and entrepreneurs are free to provide their services without fear of intellectual property theft or undue competition from already well-established service providers.

⁴³ Judgment of the Court (Grand Chamber) of 4 October 2011. Football Association Premier League Ltd and Others v QC Leisure and Others (C-403/08) and Karen Murphy v Media Protection Services Ltd (C-429/08) 2011 I-09083.