

**Subject: Consolidated Position of the Austrian Federal Economic Chamber - Consultation on the European Innovation Act**

Dear Madam, Dear Sir,

On behalf of the Austrian Federal Economic Chamber, we are pleased to submit our consolidated position in the context of the consultation on the European Innovation Act. The present letter serves as an accompanying note to our completed questionnaire.

We view start-ups and scale-ups as decisive actors within the European innovation ecosystem, playing a crucial role in addressing existing barriers to innovation in Europe. Against this background, we welcome the Commission's efforts to strengthen the overall framework conditions and to reduce obstacles for these types of companies. In this spirit, we also take a positive view of the proposed 28th regime, as a means to provide a more coherent and innovation-friendly environment for businesses across the European Union.

Yours sincerely,  
Dr. Karin Sommer

Austrian Federal Economic Chamber

**1. Access to an easier, more coordinated framework**

**1.1. EU definition for innovative companies, start-ups & scale-ups**

We support the introduction of a voluntary "28th regime" to facilitate cross-border start-up activities in Europe. The 28th regime should include a uniform European legal form for start-ups ("EU Inc."), a fully digitalized incorporation process through a one-stop shop, and the harmonization of taxation and investment rules in order to create an investment-friendly environment. For this reason, the demands formulated under point 1.1 appear generally acceptable. While there are already several good national and EU funding schemes, access, complexity, and coordination could be further simplified, and the orientation towards scaling should be strengthened. Cooperation remains a decisive factor for innovation, while financing continues to represent one of the greatest challenges for start-ups. In addition, the reduction of bureaucracy is of particular importance, especially when it comes to cross-border activities.

**1.2. Innovation stress test**

We welcome measures to reduce bureaucratic burdens for innovative companies and support the introduction of a voluntary "28th regime" for start-ups as well as the use of regulatory sandboxes to facilitate cross-border growth and the development of new business models. For this reason, the demands formulated under point 1.2 appear generally acceptable.

### 1.3.Regulatory sandboxes

We welcome initiatives aimed at establishing and implementing sandboxes. However, before additional sandboxes are set up and their broader rollout is pursued, we see a clear need for a deeper understanding of the concept of sandboxes, including their design, structure, and implementation. While the term is widely used, it remains insufficiently defined to date.

### 1.4.Coordination of innovation policies and programmes

We note that too little emphasis is placed on the promotion of synergies, which can be attributed to a lack of coordination within the EU. This issue remains highly relevant, particularly in the context of the EU's strategic autonomy and technological sovereignty. From our perspective, the key question is what can actually be coordinated in concrete terms. With regard to the informal EIC Forum, this already provides a basis for formalizing the exchange process in a cost-efficient manner. We therefore welcome this step towards the formalization of the EIC Forum.

## 2. Access to finance

### 2.1.Access to sufficient financing for bringing innovations to the market

In Austria, some of the main impediments to financing of start-/scale-ups from institutional investors include i) **prudential requirements**, ii) **risk aversion** and iii) **lack of private markets expertise**. Different from public actors, private institutional investors including pension plans and insurers are mandated to generate returns within their desired levels of risk. Private markets investments are still perceived by many as risky alternatives to stocks and bonds for which the excess returns don't seem to justify the excess levels of (perceived) risk. Besides, private markets investments are put under additional scrutiny by prudential regimes like Solvency II and the Basel rules (i.e. extremely high capital charges).

**In detail**, the following barriers can be identified in the case of Austria:

#### a) Institutional Investors

Regulatory barriers include solvency capital requirements for insurers (Austrian law: Versicherungsaufsichtsgesetz 2016) and CRR minimum capital requirements for private assets for banks (Austrian law: Bankwesengesetz). Pension plans are subject to similar restrictions (Austrian law: Pensionskassengesetz). Venture capital and growth equity funds often operate with closed-ended structures that call capital from investors rather than requiring an upfront lump-sum investment. Banks for example find such investments extremely unattractive as they have to budget 150% RWAs for their total commitment on the day they subscribed to the fund rather than allocating RWAs as the target fund proceeds to call capital from its investors. Also the capital charge (150%) in Austria is extremely high and applies only to 'speculative investments'. In conclusion, **capital requirements for institutional investors should be revised**.

## b) Non-professional private investors

Distribution and marketing of AIFs to semi-professional or retail investors is subject to national discretion (possible under Austrian law according to Art 48 & 49 Austrian Alternative Investment Fund Manager Act). EU fund labels such as the ELTIF harmonize distribution rules and enable cross-border marketing of AIFs to retail and professional investors alike. But in practice cross-border distribution does not always work (e.g. **national gold plating** laws in other member states).

Possible ways forward:

**Taxation** on capital gains and dividends are important investment considerations of both retail and institutional investors. **Access to finance** has been improved by harmonizing loan origination by Alternative Investment Funds under the AIFMD II. **Loan origination** is one of the core services provided by credit institutions. To ensure credibility of LOFs (loan originating funds) and high investor protection it is to be ensured that loan origination by investment funds is subject to the same requirements as loan origination by credit institutions.

### 2.2. Access to IPR-backed financing

We hold the view that improving the framework conditions for IPR financing would be highly beneficial—both to provide start-ups with greater opportunities in the context of bank financing and to significantly enhance their access to venture capital as well as the valuation of start-ups.

One of the key barriers lies in the fact that banks generally do not provide credit based on IPR collateral. This creates a significant obstacle for companies whose most valuable assets are intangible. There is a need for instruments and methodologies that enable a more accurate and standardised valuation of intangible assets, which would, in turn, make it easier for risk capital providers and financial institutions to assess and accept IPRs as collateral. Without such mechanisms, access to IPR-backed financing will remain limited, regardless of the innovative potential of the underlying assets.

A central challenge for investors lies in assessing the value of intellectual property (IP). This is further complicated by differing national legislations as well as the absence of certain legal provisions, such as the possibility to capitalize self-developed software on the balance sheet. Moreover, valuations are often expensive and therefore unaffordable for many young companies. A lack of harmonized European standards exacerbates the problem, while in Austria the absence of viable exit or sales options makes investments less attractive compared to countries like Germany and Switzerland, where such mechanisms are already available.

### 3. Access to Talent

#### 3.1. Talent attraction and retention

We agree with the points raised and consider that possible harmonization in the areas mentioned could provide meaningful relief. However, we regard realistic implementation as hardly feasible, since these matters primarily involve social, tax, and legal policy aspects that fall under the responsibility of the Member States. Intervening in these areas is therefore highly complex and difficult to realize. At the same time, differing tax and legal frameworks significantly hinder the introduction and scaling of employee stock ownership plans (ESOPs). Harmonized standards would facilitate their implementation, strengthen the competitiveness of European start-ups, and address one of the key barriers to cross-border application, namely tax differences. In this respect, harmonization is urgently needed. Furthermore, mutual recognition of ESOPs is essential to ensure the mobility of skilled workers and to support the scaling of start-ups within the EU.

### 4. Access to Markets

#### 4.1. Accessing the private procurement market

We view strengthening the resilience of the European economy as a central task, particularly through the development of independent value chains in key technologies and the reduction of dependencies on non-EU markets. To foster innovation and scaling, we advocate for incentives for private investors as well as improved market conditions. These include, among others, the harmonization of fund regulations, tax incentives such as participation allowances and loss offsets, and better legal frameworks for venture capital and private equity. Fund-of-funds models and the further development of the Capital Markets Union are also regarded as important levers.

In terms of market access, the WKÖ supports reducing barriers to participation in public procurement, especially in strategic future technologies such as artificial intelligence, defense technologies, and space technologies. Cooperation between start-ups and established companies should be actively facilitated. Moreover, a consolidation of European stock exchanges to ease IPOs and mobilize growth capital is considered a valuable step. For these reasons, the demands formulated under point 4.1 appear generally acceptable.

#### 4.2. Accessing the public procurement market

We agree with the points raised, as we also recognize the barriers described in the field of public procurement of R&D and innovative solutions and generally support the proposed measures. From our perspective, the approaches envisaged in the European Innovation Act can help reduce legal and administrative uncertainties, facilitate access for innovative companies—particularly start-ups and scale-ups—and make procurement practices more innovation-friendly.

#### 4.3. Stimulating innovation procurement through R&I policies

Innovation-friendly public procurement can strengthen the demand side. It not only provides companies with initial market access but also creates opportunities for follow-up contracts—particularly for innovative SMEs. At the same time, innovation-friendly public procurement enables the targeted promotion of strategic key technologies, for instance

through larger initiatives in areas such as artificial intelligence or quantum computing. To unlock its full potential, barriers to participation in public tenders should be lowered, especially in future technologies such as AI, defense tech, or space tech. Since start-ups often gain access only through consortia or as subcontractors, cooperation with established companies should be actively facilitated and made more attractive. For these reasons, the demands formulated under point 4.3 appear generally acceptable from the WKÖ's point of view.

## 5. Access to infrastructures

### 5.1. Access to research and technology infrastructures

We regard access to research and technology infrastructures as a key factor for innovation and the attractiveness of business locations. State-of-the-art facilities at research institutions and companies enable the development of innovative products and foster the establishment of start-ups and the attraction of talent. In addition, access to EU research infrastructures should be facilitated for start-ups and supported through targeted funding programmes. For these reasons, the demands formulated under point 5.1 appear generally acceptable.

## 6. Encouraging commercialisation of publicly funded research and innovation

Overall, despite the existing IPR barriers, we are cautious about assigning this issue a high level of importance. From our perspective, universities remain first and foremost places of knowledge generation, and it is not the primary task of academic staff to commercialise research results, even if this can be desirable. In this regard, a holistic perspective should be adopted. An example is the study by Nagar et al. (2024, Research Policy), which showed that publications from ERC funded projects are significantly more often used in patents for inventions in the United States by start ups. This suggests that the commercialisation aspect is not solely an IPR issue, but is also closely linked to the existence of a vibrant start up ecosystem.

The Austrian Federal Economic Chamber (WKÖ) also views the commercialization of research as a central barrier in the innovation process. Spin-off centres at universities as well as easily accessible core facilities with technical expertise are therefore considered key levers for technology transfer and for the efficient use of university infrastructure by companies. In addition, restrictive IP regulations at universities hinder technology transfer. Universities often retain the rights to patents or research results, which complicates and increases the costs of commercial use by researchers and students. Less restrictive IP regulations, together with standardized European conditions for spin-offs, could facilitate the valorisation of university research and provide greater planning certainty for founders. For these reasons, the demands formulated under points 6.1 and 6.2 appear generally acceptable from the WKÖ's point of view.