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Feedback of

ACT | The App Association
(Transparency Reg. # 72029513877-54)
Rue Belliard 40,
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to the

European Commission

regarding its

Startup and Scaleup Strategy

Introduction and statement of interest

ACT | The App Association (hereafter ‘App Association’) welcomes the opportunity to submit comments to the European Commission’s consultation on its Startup and Scaleup Strategy.

The App Association is a policy trade association for the **small business technology developer community**. Our members are entrepreneurs, innovators, and independent developers within the global app ecosystem that engage with verticals across every industry. We work with and for our members to promote a policy environment that rewards and inspires innovation while providing resources that help them raise capital, create jobs, and continue to build incredible technology. Today, the ecosystem the App Association represents—which we call the app economy—is valued at approximately €86 billion and is responsible for over 1.3 million jobs in the European Union (EU).¹

ACT | The App Association position on the European Commission’s startup and scaleup strategy

Small and medium-sized enterprises (SMEs) are the most innovative actors in today’s markets, both established and emerging. They are closely connected to their communities, allowing them to quickly gather feedback, identify unmet needs, and adapt rapidly to changing markets. Their agility and flexibility make them the drivers of change and progress, which is why promoting innovation is at the core our advocacy efforts. For us and our members, innovation is key to unlocking new opportunities and driving economic growth. Due to all the above, we strongly support the European Commission’s efforts to improve conditions for SMEs through the Startup and Scaleup Strategy.

1. Do you agree that startups and/or scaleups face the hurdles identified in this document (access to finance, regulatory and bureaucratic burdens and fragmentation, access to markets, access to talent, and access to infrastructure, knowledge and services)?

It has long been established that Europe’s increasingly complex regulatory landscape has created significant burdens on small businesses, making it harder for them to compete and grow. The [Draghi Report](#), representing a notable recent acknowledgement of this systemic flaw in the European Union’s approach, highlights how Europe has clearly fallen and continues to fall behind due to overregulation. Similarly, these concerns are also reflected in [Atomico’s 2024 State of European Tech report](#), which surveyed around 3,500 tech founders and investors. The findings show that amongst other rules, data privacy and artificial intelligence (AI) regulation made doing business in the EU harder.

Notably, a surge in EU regulations in recent years addressing nascent markets including digital platforms and AI has created additional challenges for SMEs, which are often exacerbated by overlaps and even conflicts with other regulations. This landscape has led to more uncertainties

¹ See <https://actonline.org/wp-content/uploads/Deloitte-The-App-Economy-in-the-EU-2020.pdf>.

and burdens for innovation. SMEs have not benefited from the existing regulatory environment. The Digital Markets Act, for example, which was supposed to increase competition, has instead increased uncertainty, which makes it harder for SMEs to develop and expand. As a result, compliance costs are rising as developers are forced to adapt to different digital marketplace rules, submission processes, and legal requirements across multiple app stores.

Additionally, Europe's fragmented capital markets limit SMEs' ability to access financing, scale operations, and compete globally. SMEs often lack the resources to navigate complex financing options or the visibility to attract investment from across Europe. This fragmentation creates an uneven playing field, where access to capital is determined more by geography than business merit.

We recognise the need for certain regulatory guidelines and protections and have historically advocated for clear and strong frameworks to support privacy, cybersecurity, improved data stewardship, and enhanced competition and consumer protection across markets. However, regulatory burdens tend to disproportionately affect SMEs, as compliance often requires significant resources that smaller businesses lack.

One of our overarching messages to the European Commission is that any proposed regulation must be flexible, technology-neutral, and outcome-based, especially in fast-moving digital markets. Such an approach will ensure that regulations are adaptable and able to withstand the test of time, rather than becoming rigid and outdated as markets evolve. Additionally, we consistently advocate for regulatory frameworks that consider the unique needs of SMEs (including passed-on obligations and costs), offering lessened burdens, exceptions, or additional support to help them navigate new regulatory environments, where appropriate.

Further, we generally support the creation of regulatory sandboxes allowing small businesses to experiment and innovate without being overburdened by compliance requirements. We hope to see more SME-specific support in navigating the complex landscape of regulatory obligations, ensuring small businesses have the tools they need to comply and succeed.

2. Are there any additional hurdles faced by startups and/or scaleups?

SMEs also face challenges with standard-essential patents (SEPs). One year after the European Parliament voted in favour of the SEP Regulation, SEP licensing remains just as opaque and unpredictable, leaving SMEs trapped in a legal web that stifles innovation instead of a simplified, supportive system.

Standardisation is meant to encourage widespread adoption by innovators of all sizes, yet SMEs are often excluded due to the resources required to face SEP licensing complexities. When SMEs struggle to navigate SEP licensing, Europe's digital economy suffers, leading to slower innovation and weakened global competitiveness. The EU's inaction to date in addressing widespread SEP licensor abuses the Commission itself has comprehensively documented stands to undermine EU standards, competition, and innovation goals writ large.

SMEs face different obstacles in the SEP landscape and experience amplified harms from SEP abuses. For SMEs developing internet of things (IoT) products, deciding which connectivity standards to implement is both a technical choice based on functionality and a business decision based on what modules are both available to purchase and provide the right standards capability. To stay competitive, they often integrate multiple standards from video coding to cellular and Wi-Fi. Often SMEs end up sticking with older, inferior standards not because they want to, but because the evolving SEP licensing landscape is costly to navigate and riddled with uncertainties.

Another issue is seeking SEP licenses. Standards often contain hundreds or even thousands of SEPs, making the licensing landscape incredibly confusing. The SEP licensing landscape is skewed by extreme opacity in royalty pricing, as abusive SEP holders use overly restrictive non-disclosure agreements (NDAs) to block access to comparable rates. This leaves SMEs unable to plan ahead, negotiate effectively, or secure investment, further tipping the balance in SEP holders' favour.

Once SMEs reach the SEP licensing stage, they often encounter exploitative practices from opportunistic SEP holders who exploit loopholes in Europe's weak enforcement system, disregarding their voluntary fair, reasonable, and non-discriminatory (FRAND) commitments.

As the EC has already noted, SMEs also experience the harms of SEP abuses more acutely than larger organisations because SMEs often do not have multiple product lines to distribute risks across, nor are they as well-resourced as larger organisations from a personnel or financial perspective. A single experience with SEP licensor abuse can spell the abandonment of a SME's entire product line, and effectively drive it from the market it needs to compete in to grow and create jobs.

A transparent and fair SEP framework is essential to unlocking SME-driven innovation, attracting investment, and securing Europe's long-term leadership in the global tech economy. European Commission's intention to withdraw the proposed EU SEP Regulation as stated in the 2025 Work Programme would leave Europe's most innovative businesses struggling with the same legal uncertainty, excessive costs, and market barriers that limit their ability to scale.

3. What actions do you think the EU and/or its Member States should take to address these hurdles?

Firstly, we ask the European Commission to focus on creating a cohesive single capital market to empower SMEs to achieve their full potential by unlocking resources, improving investor confidence, and enabling cross-border financial flows. The European Commission should prioritise breaking down national silos and fostering cross-border financial flows to create more opportunities for SMEs to access diverse funding sources. Such an endeavour should consider all options the Commission has at its disposal, namely a regulation to most efficiently ensure harmonisation across the Union.

Secondly, as stated above, regulatory fragmentation creates unnecessary complexity for SMEs. A 28th Regime, an EU-wide legal statues for innovative companies, providing companies with a harmonized legal framework that is tailored specificities would be a step forward. While we

support the Omnibus Programme and welcome the wish to reduce reporting requirement by 35 per cent to SMEs, we caution against shifting reporting requirements to alternative frameworks, which could negate the intended benefits. Further, we urge the EU to consolidate data breach reporting requirements into a single reporting mechanism, reducing administrative duplication and improving compliance efficiency.

Additionally, we welcome the intention to withdraw the AI Liability Directive and the ePrivacy Directive; these are positive steps toward reducing unnecessary complexities. We encourage the Commission to proactively identify overlaps and conflicts across its regulations and directives that result in unnecessary regulatory cost and confusion for SMEs as an initial step, and to then take a comprehensive approach to mitigating these overlaps and conflicts in a single, wholistic effort. Again, such an endeavour should consider all options the Commission has at its disposal, namely a regulation to most efficiently ensure harmonisation across the Union.

Thirdly, as discussed above, a well-structured SEP Regulation is crucial for SMEs, ensuring fair access to essential technologies and preventing excessive licensing costs. We urge the European Commission to reconsider the intention to withdraw the SEP Regulation.

Fourthly, we advocate for a practical and SME-friendly implementation of the existing regulations. Regulatory decisions should be based on empirical evidence rather than theoretical risks. Overly precautionary approaches can stifle innovation, making it harder for SMEs to compete in global markets. The EU should ensure that regulations strike a balance between risk mitigation and innovation.

The App Association remains available to provide further input and welcomes the opportunity to contribute to policies that address SMEs' challenges while fostering a competitive and innovative business environment. We look forward to continued engagement with the European Commission to ensure SMEs thrive in the evolving digital economy.

Sincerely,



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