

# Welcome Letter to the Irish EU Council Presidency from the Association for Competitive Technology

The Association for Competitive Technology (hereafter ACT) welcomes and sends its best wishes to the Irish Presidency of the Council of the European Union (EU). ACT 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 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 ACT represents—which we call the app economy—is valued at more than €95.7 billion and is responsible for over 1.4 million jobs in the European Union (EU).<sup>1</sup>

To continue improving the lives of European citizens and creating sought-after jobs in the Member States, ACT members rely on a EU and national-level policy environment that enable them to innovate and grow. As Ireland takes on the Council Presidency, we share below our top priorities for the upcoming months. ACT believes that the Irish Presidency has a great opportunity to further develop and strengthen Europe's digital economy and ensure that European small and medium-sized enterprises (SMEs), startups, and scaleups continue to thrive. ACT welcomes the Presidency's focus on competitiveness and its commitment to delivering the One Europe, One Market Roadmap.

As the leading industry voice of the app economy, we respectfully offer the following high-level recommendations and look forward to supporting the Irish EU Council Presidency in its work.

<sup>1</sup> See [https://actonline.org/wp-content/uploads/220912\\_ACT-App-EU-Report.pdf](https://actonline.org/wp-content/uploads/220912_ACT-App-EU-Report.pdf)



# Main Recommendations to the Irish Presidency of the Council of the EU

I.

## Supporting European Small Businesses by Creating a Single Market That Works

ACT welcomes the European Commission's proposal to establish a 28th regime corporate framework for small companies and shares the ambition to make EU Inc. a success for founders and investors across the Single Market. The proposal contains several features ACT has strongly advocated for: a Regulation as the legal form for immediate uniform application, fast and fully digital incorporation within 48 hours at a maximum cost of €100, flexible share structures compatible with venture capital practices, and a dedicated EU Employee Stock Option Plan (EU-ESOP) with exit-only taxation. These are meaningful advances for Europe's startup and SME ecosystem and must be preserved in the final text.

At the same time, ACT urges the Irish Presidency to push for **improvements in four critical areas** during negotiations:

- 1 The framework's reliance on national law for taxation, cross-border hiring, and employee participation risks reintroducing the very fragmentation EU Inc. is designed to eliminate; **tax harmonisation and a solution for cross-border employment are essential.**
- 2 **The EU central interface should be upgraded to a fully operational central EU registry from day one**, rather than a portal connected to 27 national systems.
- 3 **Simplified insolvency and winding-up procedures** should be extended beyond 'innovative startups' to all EU Inc. companies.
- 4 The **absence of a standardised EU convertible investment instrument**—an EU-FAST equivalent to the US SAFE—and the **lack of a harmonised dispute resolution mechanism leave significant gaps in legal certainty for founders and investors.** ACT stands ready to engage constructively with the Presidency to ensure the final text delivers the genuine, lasting simplification that Europe's entrepreneurs need.

This initiative goes hand in hand with creating a Single Market that works as it represents an important opportunity to reduce fragmentation, lower the costs of cross-border operations, and provide legal certainty. Other initiatives like the Innovation Act and the Capital Markets Union should also be a priority for the Irish Presidency as soon as the European Commission makes the proposals. Together, these initiatives can strengthen Europe's competitiveness and ensure the Single Market works effectively for businesses of all sizes.





## Driving the Simplification Effort

Guaranteeing a regulatory environment that works for startups and SMEs, by reducing bureaucratic burdens and streamlining reporting obligations, is one of the main priorities ACT has been advocating for. In this context, ACT urges the Irish Presidency to prioritise reaching a swift and ambitious agreement on the Digital Omnibus. To deliver an impactful reform of digital laws, the Digital Omnibus should consolidate and simplify existing digital legislation, reduce overlaps, and ensure proportionality in compliance obligations, rather than simply reorganising existing requirements under a new structure.

In particular, ACT asks the Presidency to ensure the establishment of a single reporting mechanism that allows companies to fulfil incident reporting obligations under the GDPR, the AI Act, and other cybersecurity frameworks through a single-entry point, with aligned timelines and harmonised documentation requirements. ACT asks the Irish Presidency to drive negotiations toward a final text that genuinely supports SMEs, ensuring excessive or fragmented compliance requirements across the Single Market do not overburden them.



## A Proportionate, SME-Ready Implementation of the AI Act

The AI Act becomes fully applicable on 2 August 2026, during the Irish Presidency, and the recently agreed AI Omnibus has deferred the heaviest high-risk obligations to give industry and regulators more time to prepare. While ACT welcomes that additional time and the extension of SME relief, the Presidency will oversee a critical implementation phase across the whole Act, including the transparency obligations that apply from 2 August 2026, the marking and labelling duties for AI-generated content and the new prohibitions that follow on 2 December 2026, and the continuing work on harmonised standards, guidance, and codes of practice. The conformity assessment, technical documentation, transparency, and human oversight requirements were modelled on frameworks that assume compliance capacity most SMEs and startups do not have.

ACT requests that the Presidency use its position in Council to keep implementation of the AI Act writ large proportionate and workable for smaller firms, including by ensuring that the harmonised standards, guidance, and support tools needed to comply are available well before each obligation takes effect, consistent with the AI Act's Article 99(7), which requires the interests of SMEs and startups to be taken into account. ACT also requests that the Presidency promote an enforcement posture that begins with dialogue, requests for information, and corrective-action notices before assessing penalties for smaller firms. Finally, ACT urges the Presidency to ensure the timely publication of plain-language guidance, frequently asked questions, and an accessible AI Act service desk.





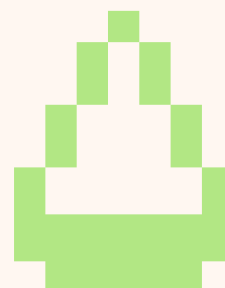
## IV.

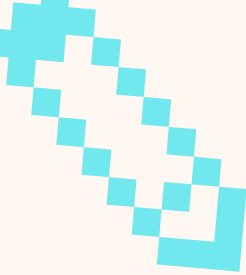
### Support the Ability of SMEs to Fairly License Standard-Essential Patents (SEPs)

We ask the Irish Presidency **to advance a balanced and pragmatic discussion on** standard-essential patent (**SEP**) **licensing at the EU level in order** to restore legal certainty and ensure that SMEs can get the licenses they need for SEPs on fair and predictable terms.

SEP licensing has a long history that has underscored foundational principles that underlie the fair, reasonable, and non-discriminatory (FRAND) commitment to ensure a system that is competitive and beneficial to consumers. These principles have been identified in empirical evidence, high-profile court cases, and through stakeholder consensus documents like the CEN/CENELEC Workshop Agreement (CWA) 95000, developed by a broad cross-section of European stakeholders.

As a preliminary matter, we request the Presidency's assistance in urging the Commission to assess the practices of German and UPC courts in light of well-established EU policy—particularly the Commission's interpretation and application of Article 101 TFEU (especially Articles 101(1) and 101(3)) to agreements between competitors—and the relevant EU Member State laws that govern standard-setting organisations' IPR policies. A plain reading of these authorities shows that awarding injunctions for SEPs without first determining whether the SEP holder has complied with its FRAND commitment is inconsistent with EU competition policy and with the Member State contract law that gives FRAND commitments legal effect.






To foster innovation and competition, it is essential that the EU SEP policy aligns with key SEP licensing principles, consistent with the CWA 95000:

- 1 The FRAND commitment means all can license. A holder of a FRAND-committed SEP must license that SEP on FRAND terms to all companies, organisations, and individuals who use or wish to use the standard.
- 2 Prohibitive orders on FRAND-committed SEPs should only be allowed in rare circumstances. Injunctions should not be sought by SEP holders or allowed for FRAND-committed SEPs except in rare circumstances where monetary remedies are not available.
- 3 FRAND royalties. A reasonable rate for a valid, infringed, and enforceable FRAND-committed SEP should be based on the value of the actual patented invention itself to the smallest saleable patent practicing unit, which is separate from purported value due to that patent's inclusion in the standard, hypothetical downstream uses, or other factors unrelated to invention's value.
- 4 FRAND-committed SEPs should respect patent territoriality. Patents are creatures of national law, and courts should respect the jurisdiction of foreign patent laws to avoid overreach with respect to SEP remedies. Absent agreement by both parties, no court should impose global licensing terms on pain of a national injunction.
- 5 The FRAND commitment prohibits harmful tying practices. While some licensees may wish to get broader licenses, a SEP holder that has made a FRAND commitment cannot require licensees to take or grant licenses to other patents not essential to the standard, invalid, unenforceable, and/or not infringed.
- 6 The FRAND commitment follows the transfer of a SEP. As many jurisdictions have recognised, if a FRAND-committed SEP is transferred, the FRAND commitments follow the SEP in that and all subsequent transfers.

This framework is particularly important for SMEs and startups because, unlike larger companies, they face significant challenges in SEP negotiations due to the inability to divert resources away from product development to obtain significant information and experience needed for SEP licensing negotiations.

In this context, the European Parliament's decision to bring legal action against the European Commission following the latter's unprecedented and improper withdrawal of the SEP Regulation proposal underscores the institutional recognition of the importance of this issue and the need for a coherent EU-level approach. The absence of a clear and predictable framework risks perpetuating fragmentation and power imbalances in licensing negotiations, leaving SMEs exposed to high transaction costs, legal uncertainty, and reduced incentives to innovate.

The Irish Presidency can and must lead by fostering the dialogue on this issue, in order to ensure **Europe has a fair and competitive market, free from the distortions caused by abusive SEP licensing practices.**





## Acknowledging Privacy, Cybersecurity, and Intellectual Property as Competition Parameters

We advocate for the recognition of privacy, security, and intellectual property protection as key parameters of competition in digital markets. In today's digital landscape, where data is a valuable asset, ensuring robust privacy and security measures not only protects consumers but also fosters trust and confidence in digital services. By promoting these factors as key competitive differentiators, EU institutions can encourage digital actors to continually innovate and offer users robust privacy and data protection measures. This, in turn, results in increased consumer choice, including options that align with privacy-conscious users' preferences, while driving standards in markets towards a more secure digital ecosystem for all.

Privacy and security protections offered by platforms not only enhance consumer trust but also allow small businesses to benefit from the established consumer trust of larger platforms, levelling the playing field against bigger brands that already enjoy network effects and consumer loyalty. Further, curated platforms screen for counterfeit and copycat applications and enforce takedowns at scale, giving small developers a vital measure of protection for their work that could not otherwise be secured.

It is in this light that the Presidency should view the Digital Markets Act (DMA) with concern. For the small developers ACT represents, trusted digital platforms are critical routes to market, supplying the security review, privacy enforcement, payment and fraud protection, and intellectual property safeguards that give consumers the confidence to install products from firms they have never heard of. Several of the DMA's gatekeeper obligations, including mandated sideloading, alternative app stores, and limits on platform curation, are weakening those safeguards, opening new channels for piracy and counterfeit applications and eroding the consumer trust on which small developers depend. By constraining how the largest platforms compete with one another (including for small developer business), the DMA also weakens the position of the smaller firms that rely on them and reduces the EU's competitiveness writ large.

**ACT requests the Presidency's partnership in ensuring that any future measures aiming to promote competitiveness across digital markets, as well as the current enforcement of the Digital Markets Act (DMA), take a balanced approach that upholds protections for privacy, cybersecurity, and intellectual property, or at least does not actively worsen these protections, nor restrict the ability to compete on these essential parameters.**





## Ensuring the Digital Networks Act Supports Innovation and Protects SMEs

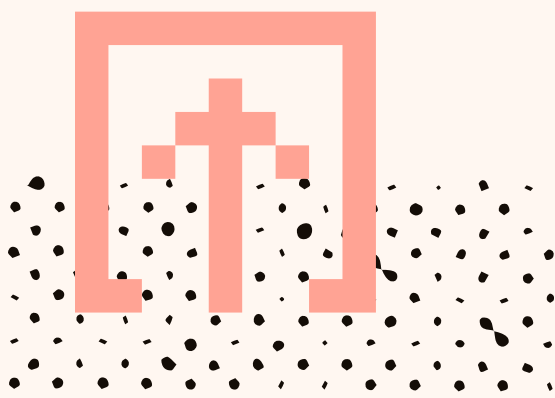
ACT supports the establishment of a robust and competitive connectivity infrastructure to drive innovation, enhance Europe's competitiveness, and ensure that both consumers and businesses benefit from digital capabilities across the Single Market.

In this context, the Digital Networks Act proposal represents an important opportunity to strengthen Europe's connectivity framework in a way that supports growth, investment, and innovation. ACT welcomes its simplification objectives, including the reduction of administrative burdens for SMEs and startups. Simplified rules improve legal certainty, reduce compliance costs, and facilitate cross-border operations.

At the same time, ACT urges the Irish Presidency to ensure that **simplification efforts do not come at the expense of the open internet safeguards that have enabled competition and innovation online.**

We remain seriously **concerned about provisions in Articles 188–189 and 191–193** that risk introducing de facto network fees on content and application providers. Internet traffic is requested by end users, who already pay their network operators for connectivity; **any mechanism that facilitates mandatory compensation obligations on traffic generators would function as a network usage fee and undermine the open internet framework.** Smaller firms will risk suffering those costs as they will be passed through indirectly via larger platforms and intermediaries on which they depend. Such burdens would place SMEs at a competitive disadvantage and risk distorting the broader digital value chain. No regulator, in Europe or elsewhere, has demonstrated a market failure that a network fee would cure. Networks and applications are complementary, since the services that ACT's small business members build generate the consumer demand for data that drives operator revenue and justifies network investment.

**ACT therefore urges the Irish Presidency to oppose the introduction of network fee requirements, specifically by deleting or substantially redrafting the provisions in Articles 188–189 and 191–193 that would enable mandatory compensation obligations on traffic generators, and to ensure the final text includes strong safeguards protecting SMEs from unintended financial and operational burdens,** while keeping simplification efforts firmly focused on reducing barriers for innovators and smaller businesses. To provide stronger connectivity, ACT encourages the Presidency to pursue technology-neutral investment incentives and measures that bring traffic closer to users, such as support for internet exchange points, local caching, and efficient peering.



# VII.

## Ensuring the Digital Fairness Act Strengthens Rather Than Fragments the Digital Single Market

ACT welcomes the European Commission's objective of ensuring a fair and transparent digital environment for consumers and shares the ambition to **maintain high levels of consumer protection across the Single Market.**

However, ACT urges the Irish Presidency to ensure that the upcoming proposal for a Digital Fairness Act delivers on **simplification and coherence rather than adding further layers of complexity to an already crowded regulatory landscape.** The main challenge facing startups and SMEs today is not the absence of adequate rules, but rather their increasing complexity, overlap, and inconsistent implementation across Member States. The GDPR, DSA, UCPD, and CRD already address many of the practices the DFA is likely to target; introducing duplicative or overlapping obligations would increase compliance costs and legal uncertainty without delivering meaningful added value for consumers. SMEs often lack in-house legal and compliance teams, meaning each additional or unclear obligation directly reduces resources available for innovation and growth.

ACT therefore asks the Irish Presidency to champion a Digital Fairness Act guided by five principles:

- 1 Simplification and coherence as the primary objective;
- 2 Stronger and more consistent enforcement of existing rules;
- 3 Principle-based and technology-neutral regulation;
- 4 Targeted action only where genuine regulatory gaps can be clearly demonstrated; and
- 5 SME-friendly implementation with practical guidance and proportionate enforcement.

The priority should be making the existing framework work better together, not adding further fragmentation to the Single Market.

# VIII.

## Conclusion

We wish the Irish Presidency every success, and we thank you in advance for considering our comments. We look forward to future opportunities for engagement, and we remain available for any follow-up questions or conversation.

Sincerely,



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