Engine

# STARTUP AGENDA

2021

# INTRODUCTION

It may sound like a cliched talking point, but it's true—small businesses are the lifeblood of the U.S. economy. And that includes the small businesses of the technology sector, the thousands of innovative, tech-enabled, high-growth companies across the country that make up the U.S. startup ecosystem.

There are startups in every state and every congressional district. There are startups that have all kinds of business models and rely on all types of funding. There are startups that operate in every sector of U.S. industry. And it's those startups that will be impacted by policymakers' decisions across a range of issues.

Unfortunately, the startup perspective can be often overshadowed when policymakers turn to the work of legislating and regulating in the technology space. Instead, the focus tends to fall on the industry's largest companies. Writing rules in response to concerns about the behaviors of the largest players—without fully considering the consequences for their smaller, newer counterparts that lack longstanding relationships and immense resources—risks creating burdens that fall disproportionately on startups. If policymakers are interested in creating opportunities for innovation and boosting competition, they must ensure an open, level, and consistent playing field in all of the policy issues that impact startups.

Policymakers focused on economic recovery should be especially mindful of the needs of U.S. startups, which are a leading source of future paychecks in America. Startups are responsible for the creation of millions of jobs each year, and they make especially critical contributions as the pandemic pushes people to be online and reliant on technology. Ensuring that startups—especially the many startups that exist outside of support from traditional funding networks—can weather the current economic downturn should be a high priority.

As a new Congress and a new administration kick off this year, Engine looks forward to continuing conversations about the startup perspective in the larger debate around several facets of technology policy. This document aims to be a jumping off point for those conversations, highlighting the policy issues Engine works on and giving a voice to some of the startups impacted by those policy issues. We're eager to be a resource for policymakers that are serious about addressing the concerns of the technology industry's small businesses.

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# CONTENTS

# Capital Access

## Why it matters to startups:

Access to capital is perhaps the most critical barrier startups face when launching. The average startup launches with roughly $78,000, often cobbled together from a mix of personal loans and family savings. While angel investing and venture capital represent attractive options for certain startups, only about one percent of startups launch with angel funds and an even smaller percentage with VC funding. These statistics are even worse for underrepresented founders. Controlling for differences in credit scores, small businesses with underrepresented founders report higher loan denials, pay higher interest rates, and are more likely to be denied credit than white-owned businesses. And those small business owners are more likely to rely on personal funds and personal credit than white owners. Put plainly, diversity in the startup community is not yet reflective of U.S. society, and underrepresented founders are at a stark disadvantage when accessing capital.

### Key takeaways:

- Startups are one of the U.S. economy's main net job creators, and policymakers should consider the unique circumstances facing startups when formulating policy, especially economic relief policy in response to the COVID-19 pandemic.
- Most startups rely on a patchwork of funding sources outside of traditional venture capital.
- Policies should make it easier for startups to access capital and open up capital markets to allow more people to participate in funding early-stage companies.
- Difficulties with accessing capital are especially relevant to underrepresented founders, including women and founders of color.

## What policymakers can do:

Policymakers must continue to improve the regulatory environment in which startups operate to raise capital. While the Securities and Exchange Commission has recently made changes—including a limited expansion of the definition of accredited investor, lifting the limit a company can raise through crowdfunding, and increasing the offering limits for Regulation A and Rule 504—policymakers should continue to seek out ways to best enable startups to raise capital effectively. Policymakers can also address capital access issues with federal funds, including streamlining federal grant processes, directing federal funds to incubators and accelerators, and supporting organizations that provide valuable support, resources, and programming for startups. And policymakers should specifically prioritize equalizing access to capital for underrepresented founders, including through incentivizing venture capital funds to be allocated to diverse founders, ensuring access to Small Business Administration resources, and identifying and rectifying discrimination in bank lending. Congress should also work with the new administration and with the startup community on its stated goals of creating a Small Business Opportunity Fund to direct funds to state and local initiatives that provide venture capital to qualifying businesses, and amending the Community Reinvestment Act.

### Startup Spotlight on Capital Access

**DivInc**
(Austin, TX)
Preston L. James, II, Founder and CEO

DivInc is a nonprofit that connects entrepreneurs of color and women founders with mentors, connections, opportunities, and resources

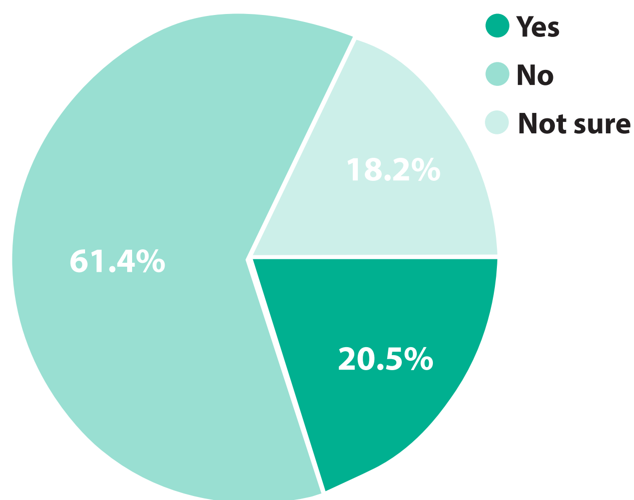
"If we look at this from a socioeconomic perspective, we need to empower people of color and women by providing them with equitable opportunities. When you look at women—and specifically women of color—they are by far the fastest growing entrepreneurial demographic in the United States. We need to create policies that fully support women."

## The Pandemic and Capital Access

The COVID-19 pandemic has brought with it even more financial uncertainty for many nascent companies. While some venture capital backed startups have been able to weather the pandemic well, other startups are in continued need of government assistance. Though the Paycheck Protection Program (PPP)—as created by Congress in the Coronavirus Aid, Relief, and Economic Security (CARES) Act—provided a lifeline for many struggling businesses, initial efforts were confusing and limited, and subsequent efforts to extend and expand PPP are not enough to ensure long-term viability of America's startup ecosystem. According to an Engine survey, while many startups received government assistance amidst the pandemic, including Economic Injury Disaster Loans (EIDL) and PPP loans, more than 60 percent of respondents indicated the financial relief was insufficient. And a plurality of startups responding indicated that more relief was needed before the end of 2020 or they would risk shuttering their doors. Startups further indicated that policymakers needed to consider a broader range of reforms beyond PPP loans in thinking about long-term relief.

To ensure startups' ability to weather the pandemic, policymakers must consider the unique needs of the startup ecosystem as Congress crafts relief programs. Though Congress took quick action early on in the pandemic by implementing the PPP, many startups did not qualify, or were not sure if they qualified for PPP loans because of the program's focus on payroll costs and rules that effectively excluded startups with venture capital backing. While Congress has renewed PPP and is allowing for second draw loans, policymakers must also consider targeted, long-term recovery proposals, including creating a dedicated startup fund, a tax credit for angel investors, long term, low-interest loan options, and incentivizing venture capital funds to be directed to more diverse founders. Given that startups success leads to net job creation, it is imperative policymakers ensure that startups have the long-term tools they need to survive.

In a survey, startups that received emergency relief through a federal program were asked if the amount of emergency funding they received was enough to support their business operations amidst the pandemic.




### Startup Spotlight on Capital Access

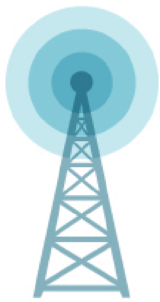
**Bitwise Industries**
(Fresno, CA)
Jake Soberal and Irma Olguin Jr.
Co-Founders and Co-CEOs

Bitwise is a startup focused on increasing workforce opportunities for diverse workers

"We disproportionately have early-stage companies led by women and people of color that do not have the safety net that later-stage companies often do. The federal government was right to move quickly on Paycheck Protection Program (PPP) loans during the pandemic. From our view, however, there should have been multiple bursts of that funding from the beginning of the pandemic until now. Without PPP, though, I think you would have seen a larger number of early-stage companies wiped out in communities like Fresno."

# Connectivity

## Why it matters to startups:



Thanks to the Internet, an entrepreneur located anywhere in the country can launch and grow a company that reaches users across the world. As broadband access increases and improves, so too do the opportunities for innovation. Reliable broadband access became even more critical during 2020, when many companies increased their reliance on remote work during the pandemic. In addition to needing Internet access, startups need a level playing field online to compete against large companies. Net neutrality protections—to prevent ISPs from blocking or throttling Internet traffic, or charging companies for better access to users—have historically been the backstop to ensure the Internet is that level playing field. Without net neutrality protections, startups that have an innovative product or service that competes with big companies could have to worry about paying to have their websites or services load as fast as those of their competitors.

Startups also benefit when there is increased availability of unlicensed spectrum, the shared airwaves that fuel Wi-Fi networks. Unlike licensed spectrum, which is typically only held by deep-pocketed wireless incumbents, unlicensed spectrum is available for use by anyone that abides by the set standards. Increases in the availability of unlicensed spectrum have created vast opportunities for the companies that make and use technology that relies on the high-frequency airwaves—such as connected devices—as well as generally improving Wi-Fi networks across the country.

### Key takeaways:

- With a good idea and a connection to the open Internet, a startup of any size, anywhere in the country, can launch and grow a global business.
- Startups need policymakers at all levels of government to prioritize faster, more accessible broadband.
- Net neutrality is crucial for startups and provides a level playing field online. Without net neutrality protections, Internet Service Providers (ISPs) can block, throttle, or charge more to prioritize certain Internet traffic.
- Startups especially stand to gain from increasing unlicensed spectrum, which fuels Wi-Fi networks and short-range wireless connectivity and creates new opportunities for innovation.

## What policymakers can do:

Congress and federal agencies should continue working to improve broadband access across the country, including by increasing the amount of spectrum available for use by the public and by pushing ISPs to build out broadband networks in underserved areas. As the debate over broadband policy in D.C. typically becomes dominated by large infrastructure companies—either vying for government-issued licenses for spectrum or federal incentives for broadband buildout—policymakers should give startup communities across the country the opportunity to weigh in with the perspective of small, Internet-reliant companies.

Policymakers should also reinstate strong net neutrality protections to ensure that the Internet is a level playing field and guarantee that startups don't have to worry about their large competitors paying ISPs for better, faster access to users. After years of attempts and legal challenges, the Federal Communications Commission (FCC) in 2015 adopted strong net neutrality rules that changed the classification of ISPs to better protect users and recognize the pivotal role broadband access plays for U.S. consumers today. The change in classification cleared away much of the legal uncertainty that had loomed over previous iterations of net neutrality rules. But the FCC reversed course in 2017, repealing the 2015 rules and replacing them with weaker obligations for ISPs to disclose how they treat Internet traffic. Policymakers can create certainty for startups and promote competition by putting in place commonsense net neutrality rules.

### Startup Spotlight on Connectivity

**20Fathoms**
(Traverse City, MI)
Andy Cole, Former Executive Director

20Fathoms provides support, services, and resources for local entrepreneurs

"Internet access is at the top of the list [of biggest challenges startups face in Northern Michigan]. We are fortunate that one of our partners paid to bring fiber Internet to our space. We've had three startups relocate here from outside of the region because of this quality Internet access."

## Why it matters to startups:

A common misconception is that Section 230 is only relevant for large social media companies, but the law is crucial for any company that hosts content created by users—including websites with comment sections, apps that let users share messages, photo storage services, and websites that let users rate and review products they've bought. Thanks to Section 230, Internet companies of all sizes are able to host and moderate their users' content at their discretion without the fear of being held legally liable for what users say or share. And it's startups that stand to lose the most if the law is carelessly changed. A small, new company that hosts user content won't be able to get investment, get off the ground, and grow its business if it has to constantly be prepared to face costly, time-consuming lawsuits over the content its users post. And unlike the largest tech companies, startups do not have the time and resources to hire thousands of people or build expensive and ultimately imperfect tools to monitor what their users share.

### Key takeaways:

- Content moderation is difficult for all companies that host-user generated content, especially for startups, which can't afford to hire thousands of content moderators or build expensive filtering tools.
- Section 230 allows Internet companies to relatively quickly and inexpensively resolve lawsuits over content created by their users. Without it, platforms could easily be bankrupted by lawsuits, or even threats of lawsuits.
- Most complaints about online content deal with lawful speech and can't easily be solved by amending Section 230. Instead, many proposed reforms would use the threat of private lawsuits to pressure companies into moderating content differently.

## What policymakers can do:

Policymakers understandably want to address concerns about problematic content that spreads online, especially when online content leads to real world harms. But amending Section 230 could make it harder for smaller and new Internet companies to launch and compete. Content moderation is incredibly difficult, even for the world's largest companies. There are no silver bullet solutions, including technological solutions. Changing the liability framework for companies that host user-generated content, in a reactionary or politically motivated way without recognizing these realities, will just make it more difficult for new and small companies to operate.

Recent reform proposals, by contrast, reflect conflicting frustrations and reactions to what some of the world's largest companies are doing. Many lawmakers say companies aren't doing enough to remove problematic content—including illegal content, hate speech, and misinformation and disinformation, especially around U.S. elections and the pandemic. At the same time, some lawmakers accuse companies of removing or restricting access to too much content, a charge often made by Republican officials who say tech companies are biased against conservative viewpoints. Carelessly amending 230 would not address many, if any, of those complaints, and it would have far reaching impacts that would ultimately harm startups the most.

### Startup Spotlight on Section 230

**Fiskkit**

(San Francisco, CA)
John Pettus, Founder and CEO

Fiskkit is an online media site that encourages civility, critical thinking, and fact-checking

"Section 230 of the Communications Decency Act is the rock on which all websites that deal in user-generated content are built—they would not exist if people could sue companies for whatever their users put online. ...We require everyone to sign up through a social network account to prove they are a real person, and we remove people after repeated bad behavior, but we will need lots of funding to scale up those protections as we grow."

# Patents

## Why it matters to startups:

Patent quality is essential to innovative, high-tech startups. High-quality patents can be a valuable asset for many emerging companies. Low-quality patents—those that claim things that were already known or that are written in vague, overbroad terms that are difficult to understand—on the other hand lack value and can fuel abusive litigation that harms startups. Unfortunately, many startups will only interact with the patent system in the context of abusive litigation. For example, patent assertion entities—also known as “patent trolls”—use patents to try to coerce startups to take quick settlements, knowing startups cannot afford costly patent litigation. Competitors can also use patent litigation to distract startups and slow down or stall new market entrants. Weak and overbroad patents are especially easy to misuse because they can be asserted against many startups’ basic activities. Startups benefit when the U.S. Patent and Trademark Office (PTO) and the courts weed-out weak and overbroad patents and when they can afford to defend themselves against frivolous or abusive lawsuits.

### Key takeaways:

- Startups need patent laws that protect truly new inventions and prevent the issuance of low-quality patents that stifle innovation.
- Policymakers must focus on patent quality, preserve tools to clear out weak, overbroad, low-quality patents, and foster affordable mechanisms for startups to defend themselves in frivolous or abusive lawsuits.

## What policymakers can do:

Patent law had been improving for startups and innovation. Developments in the past decade had leveled the playing field in litigation and given startups easier and cheaper defenses when weak or overbroad patents were asserted. Policymakers should prioritize patent quality—not falling into the trap of placing quantity over quality—and avoid legislative or policy changes which could upset existing balance or give bad actors more leverage over startups.

Congress and the PTO should seek ways to improve the quality of U.S. patents and ensure affordable ways to weed-out low-quality patents. For example, the 2011 America Invents Act created inter partes review, a procedure through which the PTO can take a second look at patents and cancel those that never should have been granted. Around the same time, the Supreme Court decided key cases confirming that abstract ideas performed on a computer are not patent eligible and that startups cannot be sued for infringement in far-flung corners of the country. Despite these successes, in the past few years some have sought to overturn improvements. Policymakers should instead preserve progress made over the past decade and further endorse tools that promote quality and reduce costs of defending against costly patent lawsuits.

### Startup Spotlight on Patents

**TheraTec**
(Bloomington, MN)
Tony Hyk, CEO

TheraTec is a telehealth startup that is improving outcomes and reducing healthcare costs

”[W]e recently had an unpleasant experience with a patent troll—one of these companies that doesn’t really exist anywhere but on paper, and just buys up patents in order to sue people. Earlier this year one sued us, and at the same time sued several of our competitors and suppliers, trying to assert a meaningless patent. ...It was a nuisance because we had to pause our development and spend resources defending the meritless suit.

# Copyright

## Why it matters to startups:

Many startups encounter user-generated content—for example, digital services where artists connect with fans, podcasting sites, and website infrastructure companies. These companies and the users and creators who rely on them interact with the copyright system on a daily basis. Startups rely on Section 512 of the Digital Millennium Copyright Act (DMCA), which provides the notice-and-takedown process for resolving claims of online copyright infringement. This framework strikes a valuable balance and is especially important to startups, because the law provides certainty and guards against mere threats of unaffordable legal exposure putting startups out of business.

Startups, Internet users, and Internet-enabled creators also face abusive copyright litigation threats. For example, "copyright trolls'" threaten to sue in the hopes of coercing startups, users, and creators to take quick settlements. Companies routinely receive improper takedown notices from purported rightsholders using DMCA claims to remove non-infringing content they do not like. And the threat of steep statutory damages and imbalanced procedures for resolving infringement claims compound these problems.

### Key takeaways:

- Changing the framework for online copyright claims would have an outsized, negative impact on startups that encounter user-generated content.
- Mandating filtering technology—which is very expensive and inherently error-prone—would create high costs and risks for startups without catching much (if any) more infringement.
- Policymakers should protect Internet users and Internet-enabled creators against abusive copyright threats and improper takedown notices.

## What policymakers can do:

Congress should avoid decreasing certainty or imposing unwarranted cost and risk on emerging Internet companies, especially considering that these startups infrequently encounter infringing content. Today's startups need the same legal frameworks afforded to their predecessors in order to compete. Larger Internet companies have the resources to absorb increased cost and risk. Startups do not. Policymakers should also avoid requiring Internet companies to proactively filter all user posts to try to detect infringement. This would not catch much (if any) additional infringement but it would impose a lot of new costs and risks and create substantial barriers to entry.

Policymakers should adopt changes to combat abuse of the current copyright system. For example, the law should discourage the sending of improper takedown notices. Congress should improve the recently-enacted process for resolving so-called "small claims," so that startups and users accused of infringement are afforded basic protections that are prerequisite to fair court proceedings. And policymakers should consider ways to restore balance to the overall copyright system and avoid giving bad actors even more leverage over startups, Internet-enabled creators, and everyday Internet users.

### Startup Spotlight on Copyright

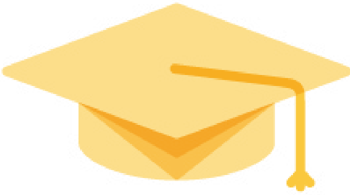
**6AM City**
(Greenville, SC)
Ryan Heafy, COO

6AM City is a hyper-local media company focused on activating communities

"Put simply, one of the biggest liabilities for our company would be changes in how copyright is handled for online content. . . . We would be concerned if copyright law made it too difficult to share content, and if the law made it difficult or impossible to write a blog and comment on, or link to, other material. We are at a happy medium with copyright law right now."

# Talent

## Why it matters to startups:



Startups need to hire the best and brightest talent from around the world to compete, especially since the tech sector faces a record number of job openings, and U.S. workers currently lack the necessary skills to fill all of those positions. But the process for hiring a high-skilled, foreign-born worker can be daunting. Long wait times for visas and cumbersome red tape place additional financial burdens on already tight startup budgets, and there is no guarantee that a startup will succeed in getting a visa for an employee. Even when startups don't hire foreign-born talent themselves, the entire tech ecosystem benefits when companies can access high-skilled immigration opportunities for their workforces, since many of these employees may go on to found or contribute to new, innovative companies, even though the U.S. lacks a dedicated startup visa program. Immigrants are twice as likely as native-born Americans to start a new business, and new immigrant-owned startups generated an estimated three to four million jobs.

Ultimately, the U.S. technology sector needs a more diverse and a better trained workforce. Studies routinely show that a diverse workforce—including cultural, racial, and gender diversity and across all levels of an organization—lead to more profitability for a business. The startup ecosystem as a whole would be boosted by a more accessible system for hiring foreign-born talent, efforts to attract startup founders from other countries, increased resources for STEM education, and a renewed focus on promoting diversity in the tech sector.

### Startup Spotlight on Talent

**Pioneers 21**

(El Paso, TX)

Carlos Martínez-Vela, Executive Director

Pioneers 21 is a nonprofit incubator working with startups and small businesses along the U.S.-Mexico border

"We know that immigration is a good thing for the United States. Our economy thrives when we attract talent and open the door, in an orderly and humane way, to individuals who are looking to improve their lives, start a business, and work hard. ...Policies that shut the door to people looking for opportunities—including but not only highly-qualified individuals—are going to cause long-term damage to our nation's economy and the life of our regional economies."

### Key takeaways:

- The startup ecosystem needs access to the best and brightest talent to succeed.
- The U.S. needs to continue attracting and retaining skilled talent from around the world to compete globally, and policymakers should improve employer-sponsored immigration opportunities to make it easier for startups to navigate the system.
- Policymakers must prioritize STEM education to cultivate future startup founders and innovative thinkers and build on initiatives to bolster diversity in tech.

### Startup Spotlight on Talent

**Greater Nashville Technology Council**

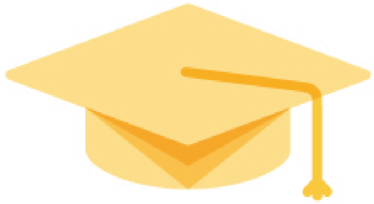
(Nashville, TN)

Brian Moyer, President and CEO

Greater Nashville Technology Council is a member-based organization promoting local workforce development and tech education initiatives

"Having a quality, educated workforce is the key to our future economic growth and success. That is most evident when it comes to our tech workforce. We need programs that support the reskilling of our underemployed workers so they can move into higher paying tech jobs. It's all about the workforce."

## What policymakers can do:



Policymakers should defend and expand existing immigration programs. The last administration pursued hundreds of executive actions to limit high-skilled immigration through H-1B visas. These efforts included imposing a moratorium on new entries, narrowing the definition of "specialty occupation," and proposing a rule to replace the H-1B visa lottery with a system that prioritizes the highest wages. The administration also halted the International Entrepreneur Rule (IER), a program aimed at bringing foreign-born entrepreneurs and their new companies to the U.S. And recipients of the Deferred Action for Childhood Arrivals program still lack a permanent solution to legally remain in the U.S. without having to continually renew their statuses. Policymakers need to prioritize expanding legal mechanisms for companies to fill their talent gaps—including the H-1B visa program—and welcoming high-skilled talent so that the U.S. can remain competitive and innovative on the global level. Policymakers should also consider implementing a startup visa program, so that the U.S. can attract innovative founders from across the globe, and the incoming administration should consider rolling back the previous administration's efforts to halt the IER.

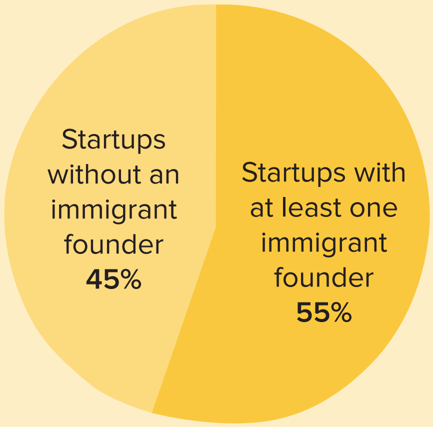
Another way for policymakers to address the current talent gap that startups face is to take steps towards a more high-skilled and diverse workforce through improved STEM education. Policymakers should consider proposals to increase funding for STEM education generally, including boosting funding for university-based STEM programs through government grant-supported research. This funding is crucial to preserve the university-to-startup pipeline, particularly amidst the pandemic, as delays and restrictions have impacted university-based research.

In addition to broader efforts, policymakers should focus specifically on initiatives to boost diversity in STEM education for students and educators. For instance, Congress could expand funding for programs that target diversity and inclusion of underrepresented groups—including at the National Science Foundation and at educational institutions—and craft strategies for increasing diversity in tech at the federal level. And policymakers at all levels of government should work with stakeholders in order to remove barriers to participation in STEM careers, including through grants to boost participation of underrepresented individuals in STEM programs.

## Talent By The Numbers

- In 2016, immigrants were responsible for starting 30 percent of all new businesses.
- Over half of America's unicorn startups (over $1 billion valuation) were founded by immigrants, and 80 percent of these startups employ at least one immigrant in a key role.
- Almost 22 percent of unicorn startups were founded by former international students in the U.S.
- Immigration leads to U.S. job creation, and increasing H-1B visas could result in 1.3 million new jobs in the U.S. by 2045.
- As of 2014, there were almost three million immigrant entrepreneurs in the U.S.

**Startups valued at $1 billion or more**




- Implementing a startup visa could result in the creation of up to 1.6 million American jobs over ten years.

# Tax

## Why it matters to startups:

While there are some tax benefits to assist startups and investors in offsetting their liabilities—thereby encouraging startup formation—many of these provisions need to be improved upon so that more startups can take advantage of them. Benefits, like the research and development (R&D) tax credit, help startups fund critical and often costly research, while others, like Section 1202 of the Internal Revenue Code, exclude capital gains taxes for qualifying investments, which encourages angel investment. Many states further encourage angel investment through tax credits, though comparable provisions do not exist at the federal level.

### Key takeaways:

- Providing tax benefits to investors and startup founders can increase capital and opportunities for anscent companies. Policymakers can improve on existing tax benefits to make them more accessible to startups.
- Discriminatory international or interstate tax frameworks, like digital services taxes, that are targeted at large companies still stand to increase costs for nascent startups with limited budgets.

Several states and foreign countries have already adopted or are contemplating adopting digital services taxes (DSTs) on revenues generated from certain services where users are located, as opposed to where the companies are located. As international governing bodies continue negotiations on broad agreements between several countries, individual countries are enacting their own different versions of DSTs. Not only is this patchwork approach complex and difficult for startups to navigate, but these taxes will likely result in larger companies passing off the cost of the taxes in the form of increased costs for goods and services to their users. While these DSTs are ostensibly aimed at the world's largest technology companies, those companies often provide popular, free to low-cost services that startups rely on, including online advertising and cloud computing tools, and any increase in costs could be ruinous for startups.

## What policymakers can do:

Looking at domestic policy, policymakers should explore ways to expand or alter existing tax benefits to help startups offset their liabilities while encouraging investment. One way to do that would be to make it easier and more useful for more startups to take advantage of the existing R&D tax credit, such as by expanding the definition of what qualifies as R&D to include common software development activities like user experience research and design. Policymakers should continue to improve Section 1202 so that it works for more startups and expand the Opportunity Zones program to include more areas. Congress should also consider enacting a federal tax credit for angel investors to incentivize startup investment, as is offered in a number of U.S. states.

Concerning tax regimes at the state and global levels, U.S. policymakers should use the tools at their disposal to push back against discriminatory digital services taxes that will ultimately stifle startup growth and innovation by making it harder for emerging companies to access the critical products and services they need to thrive.

### Startup Spotlight on Tax

**AnytownUSA**
(Westport, CT)
Geralyn Breig, Founder and CEO

AnytownUSA is an online marketplace devoted exclusively to the sale of American-made goods

"It is so hard to start up a business, and small businesses create the most jobs in the economy. Entrepreneurs should be supported at an outsized level when it comes to reduced/de-regulation at an early stage, advantaged tax treatment, and significantly improved access to capital. Everyone wants to give you money once you don't need it."

## Why it matters to startups:

The continued digitalization of world economies has contributed to the significant growth of digital trade, letting startups and the smallest Internet companies reach users across the globe. And while maintaining an open, secure Internet continues to be a policy goal of the U.S. government, individual countries often implement laws and regulations that stifle digital trade and have a disproportionate impact on small startups that lack the compliance resources of their larger industry competitors. Non-tariff trade barriers represent a significant hindrance to the growth of digital trade and the ability of U.S. startups to compete abroad. Recent trade agreements included novel digital trade frameworks that help create certainty for startups, but these provisions are not yet the norm.

### Key takeaways:

- Trade policy should seek to lower tariffs, reduce regulatory burdens, increase market access, and promote stability to ensure that startups are able to compete abroad.
- Exporting U.S. legal and regulatory frameworks and promoting digital trade will increase innovation, competitiveness, and opportunities for U.S. startups.

## What policymakers can do:

As U.S. negotiators prepare to work on trade agreements with other countries and international organizations, policymakers should work to dismantle non-tariff barriers to digital trade. Though these barriers affect all companies seeking to operate abroad, they are particularly burdensome for startups, which often lack the resources to comply with a patchwork of laws and regulations designed to impede competition. The recent U.S.-Mexico-Canada Agreement and the U.S.-Japan Trade Agreement represent key steps to enshrining commonsense digital trade frameworks and should be used as templates for future trade agreements. Policymakers should continue to work for—and press the incoming administration on—adopting trade agreements that contain similar digital trade frameworks. The U.S. should similarly continue to engage with the World Trade Organization as it works toward a framework that eliminates barriers to digital trade and as it discusses its e-commerce moratorium, which if not renewed or made permanent, would allow for the imposition of customs duties on electronic transmissions.

**Cross-Border Data Flows** - Government policies that restrict the flow of data and require data localization are often couched as necessary to preserve privacy or security, but in actuality these policies—sometimes intentionally—merely have the effect of favoring domestic companies over foreign competitors. Policymakers should continue to fight against restrictive data policies across the globe, so that startups are able to be competitive abroad. Whenever possible, provisions prohibiting data localization and provisions enabling cross-border data flows should be included in future trade agreements.

**Intermediary Liability** - Recent trade agreements put in place a novel, commonsense digital trade framework that included crucial intermediary liability provisions. They provide U.S. startups—which lack the resources to navigate a patchwork of country-by-country frameworks—with the certainty they need to launch and expand their business operations in a globally competitive online marketplace. Congress and the U.S. Trade Representative should recognize the importance of commonsense and consistent intermediary liability frameworks to startups and should advocate for these provisions in 21st century trade agreements.

# User Privacy

## Why it matters to startups:

Startups stand to lose the most in the long overdue policy debate about user privacy. On the one hand, it's startups without name recognition and longstanding reputations and relationships with users that consumers will abandon first if they lose trust in the Internet ecosystem. At the same time, the more established companies have already amassed large amounts of user data and have large budgets and legal teams leaving them well equipped to navigate the regulatory and business landscape that could result from reactionary and inconsistent policies across the country and around the world. A uniform, well-balanced policy approach to protecting user privacy can help restore faith in the Internet ecosystem while allowing startups to continue to collect and use the data they need to provide services to consumers and compete.

### Key takeaways:

- As policymakers think through privacy protections, it's crucial that they consider the impact on small and new companies.
- Startups can benefit from reasonable, commonsense privacy protections that help restore consumers' faith in the Internet ecosystem and ensure access to markets around the world.
- Startups need a uniform set of rules around user privacy to provide predictability, and policymakers should work to prevent a situation where startups have to navigate varying and potentially conflicting rules that make it difficult to grow.

## What policymakers can do:

Policymakers should prioritize crafting a uniform federal privacy framework that creates certainty for startups while providing strong protections for consumers. Currently in the U.S., privacy is regulated industry-by-industry and state-by-state. California took the lead with its 2018 California Consumer Privacy Act, which went into effect last year, and, within months, was amended by a ballot initiative. Congress has repeatedly kicked off discussions around whether and how to craft a federal privacy law, but lawmakers hit several snags, including whether a federal law should override individual states' laws and who should be able to enforce that law. Congress should pass a law that creates one standard so startups and users know the rules, regardless of where they're located.

Policymakers should also take steps to improve U.S. privacy protections to ensure that startups can compete abroad. In 2020, the European Union's highest court struck down for the second time Privacy Shield, a transatlantic data transfer agreement that let U.S. companies process and store EU users' data in the U.S, citing concerns about U.S. government surveillance. The decision created immense uncertainty for companies operating in Europe, including the overwhelming number of startups that relied on Privacy Shield. U.S. policymakers must recognize and fix the places where current U.S. law falls short on protecting privacy and civil liberties, and negotiate a new transatlantic data transfer agreement with the EU.

Finally, policymakers should defend the ability of technology companies to protect their users through encryption. The push for "backdoors"—or intentional vulnerabilities in hardware or software that can be exploited by law enforcement—will do more harm than good by opening up products and services and their users to malicious actors.

### Startup Spotlight on User Privacy

**Hatch Apps**
(Washington, D.C.)
Amelia Friedman, Co-Founder and former COO

Hatch Apps is an enterprise mobile software company

"I hope that stakeholders from tech companies (both big and small) are invited into that conversation to ensure that new legislation isn't needlessly burdensome to small companies like ours. ... [Europe's General Data Protection Regulation] has a real effect on how we build our product and market to our customers....Even as a little startup, policy decisions made halfway across the world can have a big impact on our product."

Engine is a non-profit technology policy, research, and advocacy organization that bridges the gap between policymakers and startups. Engine works with government and a community of thousands of high-technology, growth-oriented startups across the nation to support the development of technology entrepreneurship.

Engine brings together policymakers and startups to promote an economic environment conducive to startup success. One of the cornerstones of this work is Congressional Startup Day—an annual, bipartisan celebration of entrepreneurial communities that connects startups with their members of Congress. In order to foster open discussions about the successes and policy concerns of the startup community, Engine coordinates meetings between House and Senate lawmakers and their entrepreneurial constituents as part of this nationwide celebration. Congressional Startup Day takes place every year during the August recess, and allows startups and entrepreneurs to directly engage with their elected officials about the issues affecting their businesses. If you are interested in participating in Congressional Startup Day, reach out to startupday@engine.is to learn more about scheduling a meeting.

If you would like to learn more about Engine's work or engage with us further about any policy issues, please reach out to the appropriate contact below:

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