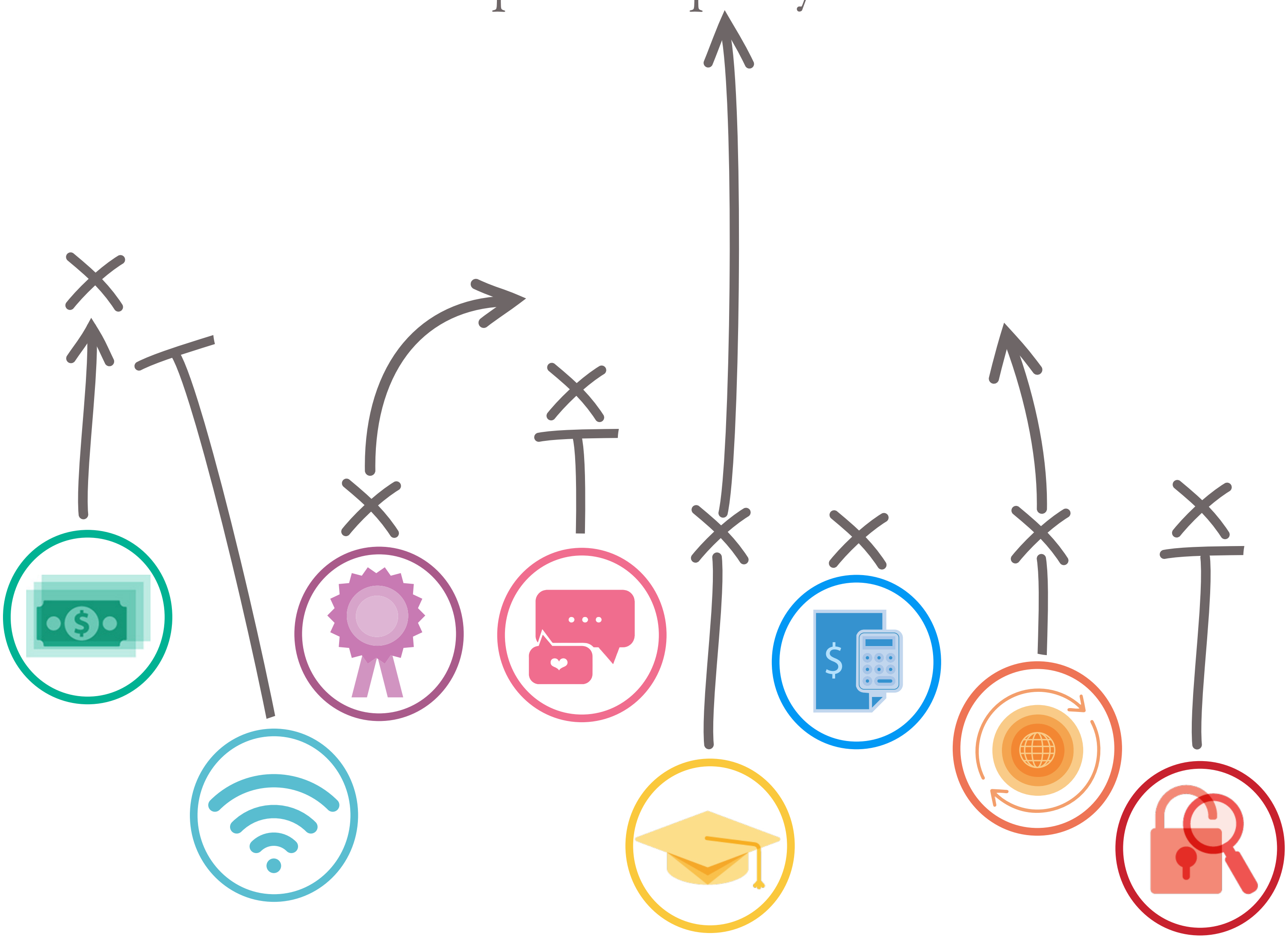
Engine

STARTUP POLICY PLAYBOOK 2023

How startups can be policy advocates



Federal Policymaking *in the U.S.*

Congress has two chambers: the **House** (435 members divided by state based on population) and the **Senate** (100 members, 2 per state)

Bill introduction: The legislative process kicks off in earnest when a member of Congress writes and introduces a bill. Serious legislative proposals usually come after the relevant committee gathers information on the issue through hearings, letters, roundtables, etc. While any member can introduce a bill, those most likely to advance come from members of the relevant committees. At or after introduction, lawmakers recruit their colleagues to "co-sponsor" their bills. A long list of co-sponsors, bipartisan support, and a companion measure in the other chamber are all good indicators for how serious a bill is.

Committee consideration: Legislation has to go through "markup" in the committee(s) of jurisdiction, which is made up of a small subset of lawmakers who work on the relevant issues and have an opportunity to amend and vote on the legislation during the markup. Sometimes full committee markups are preceeded by subcommittee markups, where an even smaller subset of lawmakers consider the proposal.

Key Senate committees: Banking, Commerce, Finance, Judiciary, Small Business
Key House committees: Energy & Commerce, Financial Services, Judiciary, Small Business, Ways & Means

Floor vote: In most instances, the bill goes through the relevant committee(s) and then goes to the chamber's floor for a vote by all of the lawmakers in that body. Once a bill passes one chamber, it moves to the other. **In the House**, the Speaker effectively decides what goes to the floor, then the Rules Committee considers the bill. Normally bills require a simple majority to pass. Sometimes non-controversial bills are passed "under suspension," which requires a 2/3 vote.
In the Senate, the Majority Leader effectively decides what goes to the floor. Non-controversial bills can pass "by unanimous consent" when no one single Senator will oppose. Otherwise, a bill needs not only a simple majority to pass, but it needs 60 Senators to agree to vote for "cloture" to end debate and vote on the bill. The consequence is that Senate bills effectively need the support of 60 Senators to overcome the "filibuster," receive a vote, and pass.

Many parts of the executive branch make startup policy and impact the ecosystem, for example:

Federal Communications Commission - telecommunications regulator
Federal Trade Commission - consumer protection and competition agency
Office of Science and Technology Policy - White House office to advise the president on technology issues
Patent & Trademark Office - grants patents and trademarks, adjudicates patent challenges
Small Business Administration - clearinghouse for government information and resources for small businesses
Securities & Exchange Commission - financial services and investment regulator
U.S. Trade Representative - lead trade negotiation agency

Bill signing: Once passed by both chambers, the bill is signed into law or vetoed by the President. Some bills, when signed into law, kick off other steps, such as agency rulemaking processes.

A note on process: The path described here is how lawmaking is supposed to work. However, Congress often considers must-pass legislation (such as the annual defense authorization bill and recurring government funding measures) up against predictable but tight deadlines. Often, unrelated policy proposals get attached to these must-pass bills, as it's difficult for lawmakers to hold up the overall bill over individual provisions.

Startup Policy *at a glance*

Access to Capital: Getting funding to launch and grow is the first hurdle most startups encounter, and policies can ease that hurdle by lowering barriers for investors, incentivizing investment, and creating accessible grant and loan opportunities.

Policymakers should:

- Enable equitable access to and expand and diversify the pool of investors so that more diverse startups receive funding
- Streamline processes for obtaining government funding, including through the grant process
- Avoid policies that make it more difficult to be acquired or access the public markets

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Intermediary Liability: The current legal framework for the Internet allows startups to host—and moderate—user content (from comments, to reviews, to photos and videos, to files, to messages, and more) without facing ruinous legal costs anytime one user takes issue with another user's content.

Policymakers should:

- Defend legal frameworks that allow startup platforms of all types to host user content without reviewing or scanning it
- Support startups' efforts to moderate content in ways that make the most sense for each platform's community of users
- Listen to startups' experiences of the realities and limitations of content moderation

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Talent: The startup ecosystem requires training and attracting the best and brightest—including high-skilled employees and founders—and flexible policies that enable startups to grow their team as they scale.

Policymakers should:

- Reform high-skilled immigration programs to make them more accessible to startups and small companies
- Create pathways for foreign-born founders to come to the U.S.
- Support STEM education programs across all education levels for women and people of color

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Trade: Digital trade policy promotes domestic technology entrepreneurship as lowering barriers to trade unlocks markets for U.S. startups to expand, compete, and find success.

Policymakers should:

- Pursue policies that lower barriers to trade and unlock markets to expand, compete, and find success
- Work together with trading partners around the world to facilitate cross-border transfers of data and enable startups to participate in digital trade

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Connectivity: Ubiquitous, affordable, reliable Internet access across the country creates a level playing field where anyone with a good idea can launch an innovative startup and anyone who wants to participate in the startup ecosystem can.

Policymakers should:

- Ensure ubiquitous, affordable, reliable broadband access for all communities across the country
- Invest in education and resources to increase digital literacy
- Promote a competitive, innovative broadband market to meet the constantly growing connectivity demands

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Patents: High-quality intellectual property rights can promote innovation and creativity in the startup ecosystem, but startups are often the first to suffer in the face of invalid patents that can be easily weaponized.

Policymakers should:

- Improve the quality of issued patents and preserve or enhance tools to protect against invalid ones
- Create more transparency in the patent system around who owns patents and controls patent assertion lawsuits
- Make intellectual property issuance and enforcement systems accessible, affordable, and transparent for startups

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Tax: Tax incentives can promote investment in the startup ecosystem, while discriminatory tax regimes can disproportionately (directly or indirectly) burden startups.

Policymakers should:

- Enact policies that encourage startup formation and growth, including tax incentives for investors and early employees
- Resist taxes that would create more costs and compliance burdens for startups
- Agree to the global tax framework with 136 countries to avoid technology-specific levies around the world

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Privacy & Data Security: Startups want to be responsible stewards of their users' data, but they need clear, uniform, and consistent rules of the road when it comes to collecting, processing, sharing, and securing user data.

Policymakers should:

- Advance data privacy and security policies that ease and streamline compliance for startups by prioritizing uniformity and avoiding conflicting obligations between jurisdictions
- Pass a federal, uniform, consistently-enforced set of rules around user privacy to provide startups with predictability and stability as they launch and grow, especially as several varying state privacy laws take effect
- Preempt varying state laws that would create a confusing patchwork of privacy laws

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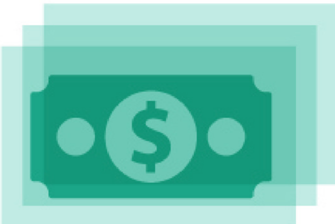
Capital Access

How does policy impact capital access?



Most startups rely on a combination of funding methods. Studies show that 65 percent of entrepreneurs rely on personal and family savings for startup capital, and less than one percent of entrepreneurs use venture capital. In order to promote the growth of new startup ecosystems, policymakers need to craft rules that can help entrepreneurs throughout the country access capital.

Key takeaways:

- 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 create opportunities for more people, especially women and people of color, to participate in funding startups.
- Policy should encourage investment in startups, including by recognizing the role M&A plays in a startup's lifecycle.

Why does it matter to startups?

Accessing capital is always top of mind for startups. If entrepreneurs are forced to take on credit card debt or turn to family members for seed funding, many innovative companies will simply never get off the ground. Startups have several options outside of bootstrapping when pursuing funding, including venture capital, angel investment, small business loans, grants, and equity crowdfunding. But many of these options pose challenges, including funding limits, inequity, and complex application processes. Others, like the SBIR program, which needs to be regularly reauthorized, are often easier for those with PhDs, and may feel inaccessible to founders. For startups with limited time and resources, any increased barrier to funding could lead to closed doors.

Where are we now?

Equity & Capital Access: Underrepresented founders still represent a tiny fraction of those receiving venture funds. And this inequity extends to other forms of financing as well. Underrepresented founders report being approved for lower loan amounts than their white counterparts and are often quoted significantly higher interest rates. Though gender and racially diverse startups are more likely to be more profitable and successful, funding still primarily benefits white-led companies. And without diversity in the innovation ecosystem, diverse viewpoints fail to be acknowledged, and innovation will lag.

Diversifying Investors: Just as founders of color and women founders are underrepresented in the startup ecosystem, the world of eligible investors similarly lacks needed diversity. The current definition for accredited investor, and consideration by the SEC to possibly increase the financial threshold to qualify, limit the pool of who is eligible to invest in startups. The definition is limiting both in terms of its high income barrier that does not account for cost of living, but also fails to provide another pathway, like a qualifying test, to become an accredited investor. If Congress pursues a pathway to expanding the definition, the investor pool would become more diverse and would lead to more equity and diversity amongst startups funded.

Other issues: While much of Congress has been focused on reigning in big tech, this may be to the detriment of startups and their founders. Efforts to limit mergers and acquisitions instead restrict a common and desirable startup exit pathway, leading to less competition. Other efforts, like an update to the JOBS act, would help to further enhance capital access pathways and could increase opportunities for diverse investors to participate in the ecosystem.

How does policy impact connectivity?

Connectivity is the ability to get online, facilitated by broadband access. The government has several programs to encourage broadband buildout, typically for underserved communities, such as rural areas. The federal government also controls who can offer Internet access via spectrum. The FCC auctions off billions of dollars of licenses for licensed spectrum to companies like AT&T, Verizon, and T-Mobile, who use those to provide Internet and voice services over cell phone networks, and providers who offer broadband via satellite. Unlicensed spectrum is the airwaves that are open for use by anyone, including ones that power WiFi networks. Net neutrality ensures that Internet Service Providers (ISPs) treat all lawful Internet traffic the same. When there are net neutrality rules in place, ISPs can't block or slow access to websites or online services, and they can't engage in "paid prioritization," or charging websites for better, faster access to users.

Key takeaways:

- With a good idea and a reliable, affordable 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 to prioritize faster, more accessible broadband and access to digital literacy tools and resources.
- Startups need a level playing field when it comes to broadband access so they don't have to worry about ISPs blocking, throttling, or charging to prioritize access.

Why does it matter to startups?

With a connection to the open Internet, an entrepreneur located anywhere in the country can create and grow a company that reaches users across the world. The more people have access to the Internet and the tools and resources to take advantage of that access, the bigger the pool of startup founders, employees, and users become. Additionally, the availability of unlicensed spectrum has created opportunities for the companies that make and use technology that relies on high-frequency airwaves for wireless device-to-device communications, like Bluetooth speakers or autonomous vehicles.

Where are we now?

The federal government is constantly working to improve access to broadband across the country, including by increasing the amount of spectrum available for use by the public, funding efforts to build out wired broadband networks, and providing subsidies to consumers. As the debate over broadband in D.C. can often become dominated by the large companies, it's critical that the startup community regularly weigh in to provide the perspectives of the small companies that rely on Internet access and their users.

The FCC has a host of issues to prioritize in order to advance telecom policies that will help the startup ecosystem. These issues include opening more unlicensed spectrum for general use, reinstating net neutrality protections that were repealed in 2017, preventing digital discrimination, and improving broadband maps. Under the 2021 trillion infrastructure bill, the FCC has received billions of dollars to invest in improving broadband adoption and addressing discrimination. Simultaneously, the FCC has been updating its broadband maps, which are used to determine where to direct efforts to boost broadband access. In order to ensure the closing of the digital divide, the FCC must discover which communities across the country are missing out on opportunities for education and innovation because they lack broadband access.

Platform Issues

How does policy impact platforms?

Any Internet-enabled company that hosts content created and uploaded by its users is a platform. While people tend to think only of large social media companies, Internet platforms include websites with comment sections, apps that let users share messages, and services that let users rate and review products they've bought. Under current laws, Internet platforms are able to host, sort, and moderate their users' content at their discretion without fear of being held legally liable for what users say or share. In the copyright space, this liability is governed by the Digital Millennium Copyright Act (DMCA), which sets up a system for platforms to respond to complaints about user-uploaded, allegedly-infringing content. Outside of that context, platform liability is protected by Section 230 of the Communications Decency Act.

Key takeaways:

- Laws that protect Internet platforms from being held responsible for their users' speech are crucial for startups that host user-generated content and protect them from ruinous lawsuits.
- 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.
- Startups need to be able to create online spaces that are useful, relevant, and welcoming to their users.

Why does it matter to startups?

Startups stand to lose the most if these laws about platform liability are changed. A small, new company that hosts user content will be unable 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 tools to monitor what their users share.

Where are we now?

Section 230: In recent years, Section 230 has been the subject of calls for reform, starting with the passage of the Stop Enabling Sex Traffickers Act in 2018. Since then, policymakers have repeatedly threatened to further change Section 230 as a means to address a variety of problems online, including political misinformation, hate speech, opioid abuse, and alleged political censorship. Several states have considered—and a handful have even passed—legislation aimed at changing the ways platforms host and moderate content. New York passed a law that dictates how platforms should handle "hateful conduct," while Texas and Florida have laws on the books (though both are currently being challenged in federal courts) that would make it more difficult for large platforms to remove content in a way that treats "viewpoints" differently.

DMCA: Some copyright holders and some lawmakers are pushing to change copyright law despite the successful and balanced framework established by the DMCA. For example, some have argued it should be easier to sue companies for copyright infringement they have no knowledge of or involvement in. Others have argued that all Internet platforms, regardless of whether their users have ever been accused of infringement, should be required to review or filter every single user post.

How does policy impact patents?

Key takeaways:

- Startups need balanced patent laws that protect new inventions without stifling innovation.
- To protect startups, policymakers should only consider changes to patent law after careful deliberation and with an eye toward ensuring balance and clarity.
- Intellectual property issuance and enforcement systems should be accessible, affordable, and transparent.

Through the patent system, the government grants exclusive rights with the goal of supporting innovation and promoting public disclosure. A patent is a limited right, of approximately 20 years, that the government gives to inventors in exchange for sharing their inventions with the public. To obtain a patent, an inventor has to establish her invention is different from prior technology and has to explain it in sufficient detail that the public can understand. You can use someone else's patented technology if you take a license. However, weak or overbroad patents (that do not adequately describe and claim truly new inventions) should not—but occasionally do—get granted. And some bad actors try to use those low-quality patents to harm startups.

Why does it matter to startups?

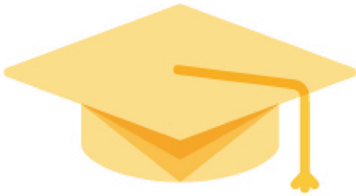
Startups drive innovation and many may choose to patent their inventions, but startups are also the first to suffer when weak or overbroad patents are issued. Even though it can be a long process, many startups apply because high-quality patents can be valuable assets for growing businesses and attracting investment. However, many startups will only interact with the patent system in the context of abusive litigation. For example, patent assertion entities (PAEs), also known as "patent trolls," acquire patents—sometimes in secret—with no intention of making or selling anything. Instead, PAEs 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 invalid patents and only issue or enforce patents that specifically claim truly new inventions.

Where are we now?

Patent law has overall been getting better for startups and innovation. Recent developments have improved the quality of issued patents and leveled the playing field in litigation by giving startups easier and cheaper defenses when weak or overbroad patents are asserted. The 2011 America Invents Act created inter partes review (IPR) and gave the PTO the ability to review and cancel patents that never should have been issued. By reducing the cost of challenging low-quality patents, IPR helped startups fight back against abuse. At the same time, the Supreme Court has decided key cases—confirming that abstract ideas performed on a computer are not patentable, restoring balance to damages law so startups can innovate without a spurious patent suit pulling their product from the market, and confirming that startups cannot be sued for infringement in far-flung corners of the country. Despite these successes, some policymakers have sought to overturn recent improvements. That would give bad actors with weak, overbroad patents more leverage to harm startups. Instead of unraveling recent progress, further legislative or policy changes should preserve and expand the existing balance and seek more transparency about who owns and controls the lawsuits filed against startups.

Talent

How does policy impact talent?



Access to talent is a critical component of a startup's ability to grow. Issues like restrictive non-compete agreements hinder startup formation and a worker's ability to migrate from large companies to startups. Immigration also has an important role in startup formation and talent supply. Immigrants are twice as likely as native-born Americans to start a new business, and new immigrant-owned startups generate an estimated three to four million jobs. And unemployment in STEM fields is incredibly low, meaning demand outpaces supply. But hiring foreign-born employees to fill talent gaps can be daunting since there is no guarantee that you will succeed in getting a visa for the prospective employee. Cost and limits to current high-skilled visa programs means startups are often unable to benefit from existing programs. And women and people of color continue to be underrepresented in STEM education, leading to decreased opportunity in STEM fields.

Key takeaways:

- Startups know that having the best and the brightest employees is critical for success.
- The U.S. needs to continue educating domestic talent and attracting and retaining the best talent from around the world to compete globally.
- Congress needs to make it easier for startups and other small businesses to navigate the immigration system.

Why does it matter to startups?

Entrepreneurs know that finding and retaining talent remains one of the biggest challenges facing startups. To compete in a global economy, startups need to hire the best and brightest employees from around the world, and workers and innovation benefit from mobility. That's why access to talent remains a top policy concern for startups. Long wait times for visas and confusing red tape practices place additional financial burdens on already tight startup budgets. And a lack of a dedicated startup visa puts the U.S. behind its innovative competitors in attracting cutting-edge founders. U.S. immigration policy should instead encourage entrepreneurs to build and grow their companies here. It is also critical that we adequately train talent at home. Women and people of color are underrepresented in the innovation ecosystem, but diverse teams lead to more innovation and better results.

Where are we now?

Immigration: H-1B visas allow employers to sponsor foreign-born "highly-skilled" workers and are the best way for foreign students and specialized workers to remain in the country. For a startup, navigating the complex H-1B process and competing for an extremely limited number of visas is often daunting and cost-prohibitive, but these visas are critically important for the tech industry at large. Additionally, policymakers have proposals meant to attract foreign-born founders but failed to advance significant changes, like the creation of a startup visa. There is also tremendous uncertainty around the Deferred Action for Childhood Arrivals (DACA) program. DACA has been found to be unlawful by the courts and Congress has yet to pass a permanent solution for the thousands of individuals affected.

Employment law: The Biden administration has issued a proposed rule to ban post employment non-compete agreements, but within the rule is exploring exceptions or alternative constructions. Policies to limit the implementation of non-competes would enable founders and employees to use the skills they have developed in launching and growing new startups, spurring economic and job growth.

Tax

How does policy impact taxes?

Key takeaways:

- Tax policy has a significant impact on startups and can represent a barrier to growth and formation.
- Overly complicated and discriminatory tax frameworks could result in burdens and passed-down costs for startups.
- Tax policy—such as the angel tax credits in several states—can help incentivize investment in startups.

Congress is responsible for developing tax policy, while the Internal Revenue Service is responsible for the implementation of this policy. Federal tax policy includes several areas like personal taxes filed every year, various corporate taxes, and complex taxes on foreign profits of U.S. multinational corporations. States have their own tax systems which use credits and deductions to affect economic activity. The purpose of tax policy is not solely to raise revenue, but also to influence policy through the provision of tax credits and deductions.

Why does it matter to startups?

Tax policy can be difficult for startups to navigate. Simple adjustments, like electronic filing of 83(b) elections, can ease this burden. While some tax benefits exist to assist startups and investors in offsetting their liabilities, many of these provisions can be improved. Benefits like the research and development (R&D) tax credit help startups fund critical and often costly research, Section 1202 of the Internal Revenue Code incentivizes angel investment in small businesses, and Qualified Small Business Stock can incentivize investment in startups and help startups attract talent. Other considerations, like allowing employees to defer taxes when exercising stock options, significantly impacts the recruitment and retention of talent. Policymakers should consider new benefits to encourage startup formation and growth, and resist efforts, like digital advertising taxes, which could increase costs for services on which startups rely. Many states encourage angel investment through tax credits, but comparable provisions do not exist at the federal level.

Where are we now?

Qualifying small businesses can currently take advantage of the R&D tax credit of up to $250,000 per year, offsetting the payroll tax. All companies have the option of deducting their R&D expenses when they file their taxes, but under a tax reform bill passed in 2017, starting in 2023 those expenses must now be amortized over five years. This is a less favorable tax treatment for these expenses, making R&D more expensive. Policymakers should support efforts to allow R&D expenses to be deducted each year, rather than spreading the deduction over five years. Congress should consider expanding the cap on the refundable tax credit, expanding the credit itself, expanding eligibility for the credit, and broadening the definition of what counts as R&D to include common software development activities. Policymakers could also pursue a first employee tax credit that is equal to a percentage of W-2 wages filed. Because many startups are not yet profitable in their early stages, providing a tax credit against payroll tax liability would be particularly beneficial.

While several states have enacted angel investor tax credits, there is no federal equivalent. Policymakers could consider enacting a federal counterpart that provides a credit of 25 percent to 50 percent of the amount invested in startups. Congress should also consider reforming the Opportunity Zone program, which provides tax benefits to individuals or corporations that invest in financially distressed regions.

Trade

How does policy impact trade?

Sound digital trade policy is a vital part of promoting domestic technology entrepreneurship. Startups need low barriers to trade to unlock foreign markets to expand, compete, and find success, but barriers to trade aren't reduced by themselves. Through trade engagement, dialogues, agreements, and partnerships with trading partners and blocs across the globe, U.S. trade agencies and their partners in Congress work to ensure U.S. startups encounter a fair playing field on the global stage.

Key takeaways:

- Trade policy should seek to facilitate cross-border data flows, reduce regulatory burdens, increase market access, lower tariffs, and promote stability to ensure that startups are well positioned to expand abroad.
- Exporting U.S. legal and regulatory frameworks and promoting digital trade will increase innovation, competitiveness, and opportunities for U.S. startups.

Why does it matter to startups?

Startups have flourished with the growth of digital trade, enabling them to reach users, facilitate transactions, and empower communications across borders and around the globe. However, tariff and non-tariff barriers create burdens for startups looking to serve new markets. In addition, trade-related conflicts and fractured regulatory regimes inject uncertainty and inhibit startups' ability to enter new markets abroad.

Where are we now?

Global tax policy: The Organization for Economic Co-operation and Development (OECD) members agreed to a global tax framework, but its implementation continues to face headwinds. While per the agreement, Digital Services Taxes (DSTs)—which would increase costs for startups—are temporarily suspended pending adoption, the target implementation date has been pushed back until 2024. Without formal adoption, the threat of unilateral DSTs will likely reemerge.

Cross-border data flows: Restrictions on data flows, or data-localization measures, have continued to proliferate around the world and harm the ability of startups to grow and compete globally. In July 2020, the data transfer agreement between the U.S. and EU that was overwhelmingly relied upon by startups, was invalidated by a European court over security concerns—restricting how data can be transferred across the Atlantic. A new agreement responsive to European concerns was announced in 2022, but it may still be months before it can be relied upon as a legal transfer mechanism.

Indo-Pacific: In 2022, the Biden administration launched the Indo-Pacific Economic Framework with a group of countries in the region, and negotiations over the details are ongoing. While the framework is not a traditional trade agreement, it still could produce benefits for U.S. startups, including lower barriers to digital trade.

Europe: The European Union has adopted or begun several legislative initiatives that will impact U.S. startups operating there, including the Digital Services Act (which addresses content moderation online), the Artificial Intelligence Act (which will regulate AI based upon "risk"), and the Data Act (a proposal to govern 'non-personal data,' and will impact the cross-border flow of such data).

How does policy impact privacy?

User privacy refers to a user's ability to have a say in how her data is collected, used, and shared. Currently, U.S. law approaches privacy on a sector-by-sector basis, where data held by health providers has a certain set of protections, data about consumers' credit has a different set of protections, etc. In the U.S., the first comprehensive privacy law was the California Consumer Privacy Act, passed in 2018, though four more states have since passed their own comprehensive privacy laws, and several more are considering their own state law proposals.

Key takeaways:

- As policymakers think through privacy protections, it's crucial to consider the impact on small and new companies.
- Startups can benefit from reasonable, common sense privacy rules that restore consumers' faith in the Internet ecosystem.
- Startups need a uniform set of rules around user privacy to provide predictability, not varying and potentially conflicting rules on a state-by-state or court-by-court basis.

Why does it matter to startups?

Startups stand to lose the most as policymakers debate privacy and data security rules. 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 large Internet companies that have already amassed large amounts of user data and have large budgets and legal teams will be best equipped to navigate the regulatory, legal, and business landscapes that could result from reactionary policymaking in this area. A 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 with big tech companies.

Where are we now?

The U.S. user privacy debate began to evolve in 2021 when more states such as Utah, Connecticut, and Colorado began passing their own legislation, adding to the patchwork of laws initiated by the California Consumer Privacy Act, which was changed by a ballot initiative in 2020. Most companies with California users need to comply with the law's new burdens and responsibilities in order to avoid penalties from the state Attorney General as well as potential lawsuits by Californians. Some of the recently passed or proposed state laws have been built from other state privacy models, making the patchwork of laws more consistent, but still complicated for startups to follow. In 2022, the Federal Trade Commission kicked off a sweeping review of data collection and use practices, which could leave to another set of rules for startups to follow.

Also in 2022, Congress advanced the first bipartisan, bicameral federal privacy bill, the American Data Privacy & Protection Act, but failed to pass it into law. While the bill marks a big step forward towards a federal framework, lawmakers continue to grapple with questions, including how the bill would impact the ad-supported ecosystem, its complex private right of action, and its limited preemption of state laws. As policymakers consider privacy, one major question is whether a federal law should override individual states' laws, which currently stand to create a complicated patchwork of state-by-state privacy rules. Another hurdle has been whether a federal law should give individual users the ability to bring lawsuits against companies that violate the law, which could open up startups to potentially abusive lawsuits and create inconsistent enforcement that varies from court to court across the country.

Engine

What is Engine?

Engine is a non-profit organization that works with thousands of startups across the country as well as investors and ecosystem system support organizations to advocate for pro-startup policy through research, analysis, and advocacy.

The vast majority of startups can't afford lobbyists, but their voice should be front and center as policymakers think about innovation, entrepreneurship, and technology policy.

How can startups get involved?

- Sign up for our weekly **newsletter**, which is how we keep startups updated on policy conversations that would impact the startup ecosystem
- Participate in a **#StartupsEverywhere profile**, where we showcase the work founders are doing, the story of how they got there, and how policy can help—or hurt—that process
- Take part in Engine-organized **events**, including panels, seminars, and meetings with lawmakers, including through Engine's flagship **Congressional Startup Day** in August
- Sign onto **letters** and **comments** in support of policies that support the startup ecosystem

Engine is a non-profit, and there is **never any cost** to working with us. Our work is supported by contributions from companies of all sizes as well as philanthropic organizations.

If you're interested in joining Engine's work or learning more, please contact advocacy@engine.is