

Article Information

Service: Corporate & Commercial, Information Technology, Intellectual Property

Signature Innovation and Science Agenda Launched

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The measures announced are far reaching, but we await much of the detail.

*The key areas provided for in the new policy are explained below by **Partners, David Cornwell, James Lawrence, Tim O'Callaghan and Tim Clark** from the firm's national Corporate and Intellectual Property & Technology Practices.*

Tax breaks and incentives

It is well recognized that access to capital at the crucial early startup stage is pivotal to the success of innovative startups, and this market in Australia is very thin. To encourage startups and early stage investors, and facilitate innovation, the new policy includes tax concessions to encourage investment. These include:

- **Investor tax incentives:** for investors in eligible startups, a 20 per cent non-refundable tax offset based on the amount of their investment. This is capped at \$200,000 per investor, per year. Investors also receive a 10 year capital gains tax exemption for investments held for three years.
This is intended to attract investors to eligible startups and consequently provide upcoming eligible startups with funds required during the period of initial funding, until startups begin generating revenue. The scheme largely reflects the UK Seed Enterprise Investment Scheme which is reported to have raised over AUD\$500 million in startup investment for almost 2,900 companies in its first two years.
- **Early Stage Venture Capital Limited Partnership (ESVCLP) Incentives:** partners of ESVCLPs will receive a 10 per cent non-refundable tax offset on capital invested in startup companies. This is intended to make ESVCLPs more "internationally competitive" and attract more venture capital investors. The reforms will also include increases to the maximum fund size for new ESVCLPs, and remove the need to divest from a company when the ESVCLP's value exceeds \$250 million.
- **Increasing access to company losses:** the 'same business test', which forms part of the tax loss rules, will be modified to encourage small innovative companies that have tax losses to take sensible risks without fear of losing access to their company tax losses. The announced amendments include allowing businesses to access prior year losses when they make minor changes to their operations, and replacing the 'same business test' with a 'predominantly same business test.'
- **Depreciation deductions:** introducing reforms to increase the depreciation benefit and decrease the cost of investment in intangible assets such as patents, trademarks, copyright and business models. This includes a new option to self-assess the tax effective life of acquired intangible assets, and the option to continue using the existing statutory effective life of the asset.

Measures to facilitate collaboration

The Agenda announces a suite of new arrangements to encourage and facilitate collaboration between the business sector, and researchers at universities or scientific institutions. These include:

- **Global Innovation Strategy:** to provide "market-ready startups" with access to entrepreneurs, mentors, investors

and a widely connected network of innovation hubs, five 'landing pads' will be established, supporting entrepreneurial Australians in "global innovation hotspots" including Silicon Valley and Tel Aviv.

- **University Research Reform:** to facilitate the rate of collaboration, reforms will be implemented to encourage joint endeavours that produce outcomes with commercial and community benefit. The reforms will include a Research Support Scheme which will provide funding to Australian universities as a flexible funding stream to support systemic research costs. It also includes a Supporting Research Training Scheme which will provide funding to support higher degrees by research students. The Government has also promised to introduce a systematic national assessment to measure and assess the economic, social, and environmental impacts of university research.
- **Cyber Security Growth Centre:** to provide Australian businesses with the capability to trade online safely and securely, and to make Australia a "global industry leader", exporting products and services in the global marketplace, the Growth Centre is mandated with building, "an Australian cyber security industry". This involves developing a national strategy, identifying industry priorities, and coordinating cyber security research and innovation.
- **Innovation Connections:** to drive new industry-led collaborations between researchers and small and medium enterprises (SMEs), this program will provide "Facilitators" to startups, and make matched grants to support graduate, postgraduate and business researchers undertaking placements in businesses or publicly funded research organisations.
- **Incubator Support Programme:** funding and access to seconded research and technical talent will be provided, as well as an online portal for entrepreneurs to access incubators. This is to support existing incubators and to encourage development of new ones, particularly in regions and sectors of high innovation potential.

Open data

The Agenda includes a commitment from the Government to "open data" and data-driven innovation, including policies for data to be made openly available by Government agencies:

- **Data Sharing:** de-identified and non-sensitive public government data will now be openly available by default. This public data will be freely accessible, though fees apply to specialised data services. This will be centralised at data.gov.au.
- **Data61:** formed through the merger of the CSIRO's digital research unit and National ICT Australia, Data61 will provide data analytics, linking disparate government datasets and releasing them on open data platforms. With an added injection of funding, Data61 will also develop new cyber security architectures, build a Data Research Network linking businesses with data researchers, and provide data analytics training.

New Visas for entrepreneurs

A new visa will be introduced to attract innovative talent and retain high achieving foreign students in Australia.

- **Visa Reform:** to attract unique and innovative entrepreneurs to Australia, a new provisional Entrepreneur Visa will become available to entrepreneurs who hold innovative ideas and financial backing, providing a means to permanent residence. This will be matched with similar "pathways to permanent residence" for postgraduate research graduates with STEM qualifications.

Regulatory/Legislation changes

These initiatives include:

- **Insolvency Law Reform:** to encourage risk taking, three changes to insolvency law will be implemented. First, the current default bankruptcy period will be reduced from three years to one year. Second, a so called "safe harbour" will be established, to protect directors from personal liability for insolvent trading. This applies if the director appoints a restructuring adviser to develop a turnaround plan for the company. Finally, "ipso facto" clauses will become unenforceable. These clauses allow contracts to be terminated solely due to an insolvency event. They often lead to a company's liquidation; if a company is undertaking a restructure.
- **Reforms to Employee Share Schemes ('ESS'):** to help attract talented employees to young startups, and to allow non-disclosing companies with commercially sensitive information to offer ESS's, disclosure documents given to employees will no longer be required to be made public.
- **The Digital Marketplace:** a pro-business initiative is to reduce regulatory hurdles preventing startups and small businesses competing for government department contracts. Alongside this change, a "Digital Marketplace" will be established, providing an online directory of digital and technological services provided by small to medium size businesses, for government agencies to seek procurement.

Other Initiatives include

- **CSIRO Innovation Fund:** the CSIRO will receive \$200 million in funding over ten years, to invest in new and existing start-ups that develop technology from the CSIRO, research agencies and universities. Further, the CSIRO will also receive another \$20 million to expand the “Accelerator programme” to include other publicly funded research organisations and prepare research for commercial adoption.
- **Promoting Female Participation:** the government has promised to invest \$13 million over five years to encourage women into Science, Technology, Engineering and Mathematical research (STEM).
- **Enacting the Digital Curriculum:** to safeguard basic maths, science and technology skills across the education system, a \$51 million package over five years will reform the school curriculum to include online computing challenges for Year 5 and 7 students, ICT summer schools for Years 9 and 10, and an annual ‘Cracking the Code’ national competition.

The success of the agenda will depend on action and effective implementation. We await to see more detail but are hopeful the impetus will not falter as has happened with the equity crowd funding model.