



**Australian Government**  
**Department of Industry,  
Innovation and Science**

# Commercialising Business Ideas – Discussion paper

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# Purpose

This discussion paper is intended to provide interested stakeholders with an opportunity to:

- comment on the findings of the department's recent consultations on the challenges businesses face when commercialising their business ideas; and
- continue to be involved in the policy development process.

# Strategic Direction

The 2018-19 Portfolio Budget Statement states the role of the Department of Industry, Innovation and Science (the department) is to drive growth and job creation for a more prosperous Australia by facilitating economic transformation and boosting business competitiveness.<sup>1</sup>

# Evidence

In order to maintain economic growth and living standards in Australia, we must grow and diversify our national income. To do this, we must bring to the world more new-to-market products, processes and services i.e. innovation.<sup>2</sup>

Australia has positive conditions for entrepreneurship, but difficulties with commercialisation and scaling businesses. For example, while the proportion of innovation active Australian businesses is high, the proportion of innovation active businesses that engage in repeat innovation or new-to-market innovation is low.<sup>3</sup>

This is a critical point, as business innovation improves business performance and the more novel and more frequent the innovation, the greater the impact on business performance.<sup>4</sup>

As commercialisation is the process of turning new-to-market innovations into income generating products and services, it is an important lever to drive economic growth.

# Context

The department and other government agencies target specific stages of the commercialisation process through a range of programs that seek to build business

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<sup>1</sup> Portfolio Budget Statement 2018-19, p13.

<sup>2</sup> DIIS (2016) *Australian Innovation System Report 2016*, p. 1: the Organisation for Economic Co-operation and Development (OECD) estimates that as much as 50 per cent of long-term economic growth in its member countries can be attributed to innovation, and this contribution is expected to grow.

<sup>3</sup> DIIS (2016) *Australian Innovation System Report 2016*, pp. 42 & 45

<sup>4</sup> DIIS (2016) *Australian Innovation System Report 2016*, p. 25 (Figure 2.1), p. 42 (Table 3.2), & p. 44

capability and offset some of the costs and risks associated with R&D and other innovation activities. These include the Entrepreneurs' Programme (which includes the Accelerating Commercialisation element), the Research and Development Tax Incentive, CSIRO's On Accelerator, the Biomedical Translation Fund, and tax incentives for early stage investors.

## Consultations with innovative SMEs

The department recently conducted a stakeholder consultation process in order to better understand the needs of innovative Australian small and medium enterprises (SMEs) seeking to commercialise their business ideas.

These consultations focused on 'intellectual capital', which is defined as: ideas, know-how, branding, data and trade secrets as well as registered Intellectual Property (IP) rights such as patents, trade marks, copyright, designs and plant breeders' rights.

### Methodology

The consultation process ran from 25 May to 14 August 2018 and included a series of in-depth interviews with a range of innovative SMEs, industry bodies as well as business and IP service providers. An online portal was established to support these consultations and ensure all stakeholders had an opportunity to contribute. Overall 51 in-depth interviews were conducted face to face or by phone and 12 online submissions were received.

### Findings

The key findings of the consultations were:

1. SMEs view the concept of intellectual capital (especially registered IP rights) as highly technical, complex and daunting;
2. The majority of SMEs consulted do not have the skills or experience to effectively recognise and exploit their intellectual capital;
3. Strategic advice on these matters is not readily available or affordable;
4. SMEs lack the foresight to deal with enforcement and infringement actions when they arise.

## Opportunities for further action

There are a number of opportunities to address the challenges identified through the consultations. These can be categorised as:

- Improved education and awareness of intellectual capital via a range of delivery modes and channels;

- Development of new tools or services to improve understanding of and interaction with the broader IP system;
- Streamlined enforcement options.

These opportunities present a variety of concepts and ideas which may remedy the issues identified. However, all of these require further exploration and analysis. Ongoing investment in the development of a robust and relevant evidence base is also required. We consider this work to be the starting point for the development of an IP policy framework.

## Improved IP educational material

IP educational material could be improved by building on existing educational material (e.g. the IP Toolkit for Collaboration or IP Australia's 'Engaging an Attorney' toolkit and 'Upskill small business education program') to deliver advisory services possibly through a workshop or seminar model. It is envisaged that this service could:

- cover all aspects of intellectual capital, including registrable IP rights and non-registrable IP, basic recording and management, registration processes and enforcement options; and
- encourage SMEs to view intellectual capital as a strategic asset for businesses, to be managed and exploited accordingly.

## Assist SMEs to record and track IP

The consultation found that collaboration with government departments, and applying for government funding, can lead SMEs to improve their record keeping and identification of IP. Changes to program reporting requirements could encourage businesses to record and track their intellectual capital, helping businesses to better manage and exploit their existing intellectual capital. Such requirements could be supported by increased advisory and educational opportunities for SMEs.

## Building an evidence base

The evidence base for IP policy development could be improved by introducing questions on intellectual capital into existing ABS and departmental surveys.

## Better IP Advice

The intellectual capital advice available through the Entrepreneurs' Programme could be expanded to address the need for independent strategic advice.

## IP Education and Training Centre

An IP Education and Training Centre to provide economy-wide training targeting businesses, advisors/aggregators and patent attorneys. The Centre could be modelled on the Singaporean IP Academy model and could cover topics such as:

- understanding the importance and the need for IP registers and how to effectively use these;
- how to develop, use and enforce non-disclosure agreements;
- navigating foreign IP systems;
- how to develop and enforce employment agreements covering confidentiality and IP;
- how to effectively license IP; and,
- training for IP advisors on providing strategic advice to SMEs on how to exploit their intellectual capital.

## Streamlined enforcement options

It would be beneficial to explore options to lower the costs of enforcing IP rights to help businesses:

- protect their technology in a timely fashion, prior to entering the market; and
- secure their position in the technology landscape and enable them to realise the business' commercialisation strategy.

This could involve:

- an IP ombudsman or IP arbitration service could be established with mandatory short time frames and fixed fees;
- sharing data between government agencies to accelerate or automate existing enforcement mechanisms; or
- targeted assistance to resolve IP disputes.

## Holistic IP database

A holistic IP database could be established, for example by building on the existing IP search engine of registered IP rights to include:

- searches of scientific publications;
- matching text on the internet or digitised publications; and
- business names, domain names and broader market research.

## Improved IP arbitration process

An IP ombudsman or IP arbitration service could be established with mandatory short time frames and fixed fees. Such a process would limit risk and address the key constraints raised by SMEs, namely the time and costs associated with enforcing IP.

# Discussion Questions

The department is seeking your feedback on this discussion paper and the Commercialising Business Ideas Consultation Report. Your feedback will inform the department's policy development process.

In your feedback please address the below questions.

1. In your view, do the opportunities for further action described above provide a robust basis for addressing the challenges Australian businesses face when commercialising their intellectual capital?
2. In your view, are there any important opportunities for action missing from the above list? If so what are they?
3. Of the opportunities for further action described above, which do you think have the greatest likelihood of materially improving the ability of Australian businesses to commercialise their intellectual capital?
4. Please provide any other comments on the discussion paper.
5. Would you like the department to contact you to discuss your comments and/ or would you like to be involved in the ongoing policy development process?

Please submit your comments, ideas and suggestions via our online consultation hub.

If you have questions, please email [IP.consultation@industry.gov.au](mailto:IP.consultation@industry.gov.au).