

**France Invest's response to the EC public consultation  
questionnaire on a European Innovation Act**

Introduction

This public consultation forms an integral part of the preparation of the European Innovation Act.

The overall objective of the European Innovation Act is to create cross-sectoral framework conditions conducive to bringing innovative ideas to market in all sectors. Improving the commercialisation of innovation is important as the uptake and diffusion of innovative solutions in the EU Single Market is suboptimal compared to the EU's main global competitors. The European Innovation Act aims to address the key challenges faced by all innovative companies in the EU, both large ones and smaller ones, that are affected by this problem. However, it will also address specific needs of smaller companies, in particular start-ups and scale-ups, as they face additional hurdles that make it more difficult for them to access the market and grow.

The purpose of this public consultation is to collect feedback on the key challenges faced by innovative companies in the EU in the context of the preparation of the European Innovation Act. This includes six categories of challenges related to access to finance, talents, markets, infrastructures, commercialisation of publicly funded research and innovation, as well as regulatory complexity and red tape. The public consultation is divided into separate sections for these six categories, plus an additional Section 7, where you can provide us with information on other additional challenges that make it difficult for innovations to reach the market. It is not mandatory to respond to all sections of the consultation, so if you are only affected by one of the six categories of challenges and want to reply only to questions about that one field, it is possible to navigate directly to the questions for that specific section. It is only mandatory to complete the information in the "About you" section.

The results of this public consultation will be summarised in a factual report, which will be published on the Have Your Say website within eight weeks of the deadline for the consultation. The results will also be analysed together with other data collected through targeted stakeholder consultations and the impact assessment. At the end of the survey, you can upload a file with a more detailed contribution and find our contact details if you wish to submit additional confidential information that you wish to share only with the European Commission.

A separate public consultation is also being launched simultaneously on the 28th Regime, with focus on EU corporate legal framework, which also looks at the challenges faced by companies in other areas including access to finance, tax and labour law, as well as insolvency.

France Invest key positions:

**Private equity and venture capital should be recognised as central to innovation financing and stronger connections between research, business and investment should be built.**

- **Access to long-term growth capital should be improved**, for instance with the completion of the CMU, more retail (European savings label, co-investment with EIF, and tax incentives), institutional and foreign investment in private equity funds, the revision of the EuVECA regulation
- We support EU-wide definitions of start-ups, scale-ups and innovative companies provided they are flexible, functional, and sector-neutral.
- **The EU SME definition should be adjusted** to avoid penalising private equity-backed firms, which often lose SME status due to outdated “autonomy” rules.
- **Articulation and visibility of supporting programmes** should be improved (e.g. a practical guide for stakeholders).
- **Stock option regimes should be harmonised** to help attract and retain talents in innovative companies.
- We are favourable to the introduction of an “**Innovation Test**” to assess the impact of new laws on start-ups, scale-ups, and investors, in particular their access to finance. Regulatory sandboxes and fast-track procedures could also be considered.
- **Intellectual property rights should be better protected.**

Your experience with topics in this consultation

Do you / your organisation have experience with designing or implementing innovation policies or programmes?

- ☐ Yes ☒ No
- ☐ Don't know

Do you / your organisation have experience with providing access to finance or assisting companies in accessing finance?

- ☒ Yes ☐ No
- ☐ Don't know

Do you / your organisation have experience with public procurement or private procurement?

	Y e s	N o
I / my organisation has experience as a supplier of innovative solutions with applying for private and/or public procurement.	<input type="radio"/>	<input checked="" type="radio"/>
I / my organisation has experience as a buyer with organising private and/or public procurement.	<input type="radio"/>	<input checked="" type="radio"/>
I / my organisation has other type(s) of experience with private and/or public procurement (e.g. I have helped suppliers or buyers to engage in such procurement).	<input type="radio"/>	<input checked="" type="radio"/>

Do you / your organisation have experience with managing or using research infrastructures or technology infrastructures?

- ☐ Yes ☒ No  
☐ Don't know

Do you / your organisation have experience with commercialisation of publicly funded research and innovation?

- ☐ Yes ☒ No  
☐ Don't know

Do you own any of the following IPR rights: Patent, Copyright, Trade Secret, Designs, Trademarks, Geographical Indications?

- ☐ Yes ☒ No  
☐ Don't know

If you own patents, under which IPC classification are they registered:

- ☐ Human necessities  
☐ Performing operations; transporting  
☐ Chemistry; metallurgy  
☐ Textiles; paper  
☐ Fixed constructions  
☐ Mechanical engineering; lighting; heating; weapons; blasting  
☐ Physics  
☐ Electricity  
☐ Don't know

If you represent a company, please give an estimate of your company's total (auditing) value comparing

the ratio of 'tangible vs intangible (IPR, reputation, etc)'.

- ☐ Predominantly intangible value
- ☐ Predominantly tangible value
- ☐ No intangible value
- ☐ No tangible value
- ☐ Approximately equal intangible and tangible values
- ☐ Don't know

## 1. **Access to an easier, more coordinated framework**

### 1.1. **EU definition for innovative companies, startups & scaleups**

There are currently no EU level definitions for 'innovative company', 'start-up' and 'scale-up' that apply across EU legislation. (There are definitions of start-ups and scale-ups in the EU General Block Exemption Regulation but those are tailored solely for the purpose of State Aid control.) This makes it difficult for both large and small companies like start-ups and scale-ups that want to innovate in the EU to obtain equal recognition of their status and to make full use of the associated rights and benefits. This also makes it difficult for the European Union to propose tailored policies in support of these types of companies and to evaluate the impact that such policies have achieved once they are in place.

Establishing such definitions in EU law could benefit these companies in their journey across the innovation landscape in the EU, by, for instance, improving legal certainty on their status under EU law and on the related rights and obligations. Having these definitions could also make it possible to bring about targeted simplifications of the EU regulatory requirements for these companies (for other company types, such as SMEs, certain simplifications already exist). This could, for example, result in (i) a lower administrative and regulatory burden (for example, by creating for these types of companies), (ii) an easier framework for doing business across the EU, (iii) easier access to finance and to research and technology infrastructures, (iv) easier access to information about relevant support opportunities or (v) a richer innovation through better collaboration synergies between such companies across the EU.

#### **Current situation**

Different EU Member States use different definitions of 'start-up', 'scale-up' or 'innovative company'. The difference between these definitions typically lies in the elements that they use to construct the definition (e.g. company age, company turnover, company expenditure on research and development, etc.).

1. Has your company / organisation experienced concrete benefits or problems associated with the way in which such definitions are used in the country(ies) in which you operate?

	Y e	N o	Not applic
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	s		able
I find the way in which my country applies such definitions beneficial	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I find the way in which my country applies such definitions problematic	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I have experienced problems because different countries in which my organisation operates are using different definitions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

2. Please share your views on what we could learn from the benefits or problems that you have experienced when creating EU-wide definitions for what is a 'start-up', a 'scale-up' and an 'innovative company'. Please also share the lessons you have learned about what elements 'should' or 'should not' be used to create EU-wide definitions. (200 words maximum)

Establishing EU-wide definitions for 'start-up', 'scale-up', and 'innovative company' could help broaden opportunities for these businesses. However, it is essential that **such definitions are crafted with care**. In general, **defining startups, scaleups, or innovative companies through fixed thresholds – such as age, headcount, turnover, ownership, or R&D spending – risks locking support mechanisms to rigid definitions**. Innovation and scaling are non-linear and require space to pivot, consolidate, and evolve. Definitions should reflect the real needs of the rapidly evolving ecosystem and consider the entire life cycle of startups – from early-stage to late growth. They should be functional and flexible, and any metric used should be as sector neutral as possible. For instance, the definition of innovative companies could be based on a set of indicators to allow companies to fall within this category without ticking all the boxes, but just by following some of the indicators.

In addition, **smooth articulation should be ensured with any existing definition in EU regulation** (e.g. article 22 of the GBER which defines startups eligible to State aid and point 80 of article 2 which defines innovative enterprises).

In this context, we wish to highlight **the unintended consequences that have arisen from the European definition of SMEs**. Indeed, private equity backed companies are often mislabeled as part of larger groups due to outdated control criteria, despite operating independently with no consolidated accounts, shared services, or operational integration.

According to Recommendation 2003/361/EC, a company must be autonomous to qualify as an SME. If a venture capital fund owns more than 50% of a business, the latter loses its autonomous status and may not be considered an SME - even if it meets other size criteria.

In addition, in France, these funds can take the form of mutual funds rather than companies, whereas the definition only explicitly refers to "venture capital companies". We propose updating the definition to **cover both legal forms of funds**.

Furthermore, the requirement for enterprises to be autonomous is complex for private equity-backed companies. These investment funds are typically temporary holders, with no consolidation obligation due to short holding periods (5 - 7 years). This structure unintentionally penalizes businesses seeking private investment. We recommend **exempting private equity-backed firms from the autonomy test and thresholds** to ensure fair SME classification and encourage private investment.

### ***Possible way forward***

3. To what extent do you agree that the establishment of EU-level definitions for 'innovative company', 'start-up' and 'scale-up' could bring the following benefits:

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	No opinion
Easier to operate my business in more than one country in the EU	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Simpler, clearer and better targeted national and EU support mechanisms for the community of innovative companies, start-ups and scale-ups	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Improved legal certainty on the status of the company across the EU and its associated rights and obligations	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Enhanced collaborations leading to a richer innovation-driven ecosystem	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Easier access to research and technology infrastructures	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Easier access to finance	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Better options for <b>lowering the administrative and regulatory burden</b> on start-ups, scale-ups and innovative companies	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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4. Once EU definitions of start-ups, scale-ups and innovative companies are created, **which existing requirements under EU law should be simplified** for these categories of companies? (400 words maximum)

It is essential that the administrative and regulatory burden on innovative companies be reduced in order to promote their growth. In the same way, innovation policy should reward ambition and scale, not disqualify companies for succeeding in attracting investment.

The EU definitions of start-ups, scale-ups and innovative companies should ensure a level playing field for private equity backed and other companies. In particular, **the GBER should be tailored with lighter reporting and more flexible thresholds.**

## 1.2. Innovation stress test

### Current situation

Well-designed regulatory frameworks can serve as catalysts for innovation. However, the role of regulation in fostering innovation is often insufficiently considered during the legislative processes, resulting in unintended barriers

to technological advancement and economic growth. Responses received by the European Commission in the public consultation on the EU Start-up Scale-up Strategy and studies on the link between legislation and emerging technologies indicate that there is both EU and national legislation that makes it difficult for companies to bring their innovative solutions to the market. Assessing the potential impact of upcoming legislation on innovation when it is being drawn up could help ensure that new rules do not place disproportionate restrictions on innovation and that, where possible, they make optimal use of available mechanisms to actively stimulate innovation. An innovation stress test could provide a checklist of questions to help legislators assess impact of this kind in a structured way. An innovation stress test could thus help make legislation more innovation-friendly in line with public interests.

5. To what extent do you agree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	No opinion
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	ee	e e	ra l			on
There is currently legislation in place in the EU that <b>hinders my organisation</b> in developing and testing innovative solutions and/or easily placing them on the market.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Legislators need to more carefully <b>assess the potential impact that legislation can have on innovation</b> , both when they prepare new legislation and when they revise existing legislation.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

### ***Possible way forward***

6. To what extent do you agree that, when assessing the potential impact of legislation on innovation...

	Stro ngl y agr ee	A g r e e	N e u t r a l	Dis agr ee	Str ongl y disa gre e	N o op ini on
legislators should consider if it makes sense to introduce a <b>regulatory ladder</b> that increases regulatory requirements in line with the increasing size of companies and their impact on the market, to check if the regulatory burden can be relieved on innovative start-ups.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
legislators should consider if it makes sense to introduce a <b>fast-track procedure for companies to obtain regulatory advice</b> .	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

legislators should consider if it makes sense to make <b>provision for regulatory sandboxes</b> in their legislation.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
legislators should consider if it makes sense to introduce <b>a fast-track procedure for obtaining permits</b> for innovative technologies that are strategic for safeguarding EU economic security.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

## 7. What potential impact on innovation do you think should be considered in an innovation stress test?

*Note: Legislators could assess different types of potential impact on different steps and different stakeholders involved in innovation., e.g. impact that the legislation could have on hampering or stimulating the development, testing, deployment and daily use of innovation, impact on innovators, financial investors in and potential customers of the innovation, etc.*

*(200 words maximum)*

An innovation test should be part of the broader competitiveness test. It should evaluate the impact of existing or proposed EU legislation on innovation ecosystems, with a focus on startups, scale-ups, and emerging technologies. In other words, it should assess whether proposed legislation could unintentionally prevent startups and scaleups from operating or growing in the EU through the lens of the full innovation cycle.

In particular, it should assess **how legislation affects access to finance** - examining whether it may deter private investment, limit subsidy eligibility for private equity-backed firms, or undermine tax incentives for R&D and equity tools like stock options. The innovation test should identify any provisions that could discourage investment, because if regulation discourages capital at key growth stages, it directly undermines innovation.

Additionally, the innovation test should consider whether the legislation hampers the ability of innovative companies to **attract and retain talent**.

### 1.3. Regulatory sandboxes

Regulatory sandboxes provide opportunities to enable companies to test innovative solutions (including innovative ideas, processes, products, business models and services) in a safe and controlled real-life environment under the supervision of competent regulatory authorities. They also stimulate regulatory

authorities' policy learning (e.g. potential impact of innovative solutions on legislation), which can help them design and/or adjust regulations that support the smoother market introduction of innovative solutions.

EU Member States use different definitions of what is a regulatory sandbox, what it can support and how different companies and regulators can benefit from it. This can create a complex landscape for companies to navigate. This may also make it more difficult for regulatory authorities from different countries to join forces and implement cross-border regulatory sandboxes together. Establishing an EU-wide legal definition of regulatory sandboxes could help achieve a more commonly shared understanding of them and foster their wider implementation across the EU.

## 8. Current situation

	Y e s	N o	Do n't kn ow
Do you / your organisation have <b>experience</b> with participating in or setting up a regulatory sandbox in the EU?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
If you answered 'Yes' to the first question, did you / your organisation experience any <b>problems</b> when involved in regulatory sandboxes in the EU?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
If you answered 'Yes' to the first question, did you / your organisation experience concrete <b>benefits</b> from being involved in regulatory sandboxes in the EU?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

9. If your reply to any of the last two questions was 'Yes':

Please let us know what **specific problems or benefits** you experienced from your participation in regulatory sandboxes in the EU.

*Note: Examples of benefits that you experienced could be: reduced regulatory barriers/burden and/or shorter time to market for your innovation, enhanced collaboration with competent authorities that regulate market access requirements for your innovation, etc.*

*Examples of problems that you experienced could be: with respect to sandboxes in different EU countries, the competent authorities in different EU countries gave you different replies regarding the regulations applicable to the same solution, you received slow or unclear feedback on regulations, not all companies involved were given equal access to the regulatory sandbox, there were insufficient safeguards in place for experimentation (e.g. regarding safety / consumer protection), etc.*

(200 words maximum)

Sandboxes are useful tools that enable innovators to test solutions in real-word conditions, while benefiting from temporarily reduced regulatory and procedural barriers. They accelerate market access, foster innovation and provide regulators with valuable insights. Such initiatives would be welcome in order to better assess, by comparison, the impact of regulation on new businesses.

Sandboxes at EU level would avoid fragmentation of regulatory regimes and increase consistency across Member States and in turn would reduce redundancy, cut costs and lower red tape preventing startups from having to navigate multiple national sandboxes. Last, both entry and exit must be carefully managed and anticipated for such sandboxes to function effectively, for instance by providing transition phases.

Currently, there are no regulatory sandboxes in France specifically dedicated to innovative companies or private equity. There are, however, sandbox initiatives in other sectors such as energy, AI and media, as well as “pilot regimes” organized by some institutions, on specific subjects such as DLT in wholesale markets.

### ***Possible way forward***

10. In your opinion, how important is it to address the following aspects to facilitate the wider implementation of regulatory sandboxes?

	Stro ngl y agr ee	A g r e e	N e u t r a l	Dis agr ee	Stro ngly disa gree	N o o p i n i o n
There should be regulatory sandboxes for <b>newly emerging technologies</b> .	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There should be regulatory sandboxes for <b>existing technologies that are evolving</b> .	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There should be more possibilities for regulatory sandboxes at <b>national level</b> .	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There should be more possibilities for <b>cross- border EU-level sandboxes</b> .	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

There is a need for a <b>better common understanding across Europe</b> on regulatory sandbox implementation to foster their wider implementation.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
An <b>EU-level definition</b> of 'regulatory sandbox' would help to achieve a better common understanding across Europe.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Regulatory sandboxes should enable <b>all types of companies from across Europe</b> to test their innovations efficiently.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There is a need for tailored initiatives to <b>facilitate the participation of SMEs, start-ups or scale-ups</b> in regulatory sandboxes (e.g. awareness campaigns, guidance).	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

#### 1.4. Coordination of innovation policies and programmes

Efforts to improve the performance and impact of innovation policies are largely uncoordinated across the EU. A European Parliamentary Research Service (EPRS) study ([https://ec.europa.eu/eusurvey/europarl.europa.eu/thinktank/en/document/EPRS\\_STU\(2025\)762853](https://ec.europa.eu/eusurvey/europarl.europa.eu/thinktank/en/document/EPRS_STU(2025)762853)) has found that a coordinated approach at EU level could boost gross domestic product (GDP) by 0.9% by 2035, while a more ambitious integrated approach could increase GDP by 2.6% by 2035.

The EU has an informal European Innovation Council Forum (EIC Forum), which brings together representatives of Member States' and Associated Countries' public authorities and bodies in charge of innovation policy and programmes. Its main role is to promote collaboration and dialogue on the development of the EU's innovation ecosystem. However, the EU lacks a formal platform for coordinating innovation policies, programmes and investments between the EU and national authorities, and among the different countries themselves.

#### **Current situation**

11. To what extent do you agree with the following statement?

	Strongly	A	N	Dis	Strongly	No
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	y agr ee	g r e e	e u t r a l	agr ee	disa gree	op ini on
The insufficient <b>coordination of innovation policies</b> * between the EU and the national authorities as well as among the different countries themselves makes investments in innovation less effective.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There is a need for better alignment of <b>innovation programmes and investments</b> between the EU national authorities as well as among the different countries themselves.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

\*innovation policies, in this context, means policies for non-R&D innovation

12. Are there any **other key challenges** regarding the coordination of innovation policies, programmes and investments that you would like to highlight? Has your organisation experienced specific problems because of the current situation of largely uncoordinated innovation policies across the EU that should be addressed in the future? **(200 words maximum)**

Awareness of innovation policies, programmes and investments should be increased. They should be clearly identifiable and stable over time. Comprehensive information on their characteristics should be provided throughout the EU in order to better interact with the target companies. In this respect, a user guide would be helpful.

In addition, the different programmes should articulate more smoothly, and their pace of implementation should be accelerated.

### **Possible way forward**

13. To what extent do you agree that the following approach is well-suited to improving coordination between innovation policies and programmes?

	Stro ngl	A	N	Dis	Str ong	N o
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	y agr ee	g r e e	e u t r a l	agr ee	ly dis agr ee	o pi ni o n
Turning the existing European Innovation Council Forum into an <b>official innovation forum at EU level</b> – which would be composed of national high-level representatives responsible for innovation policy and programmes and the Commission – with a mandate to coordinate innovation policies, programmes and investments between the EU and national authorities, as well as among the different countries themselves.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

## 2. Access to finance

### 2.1. Access to sufficient financing for bringing innovations to the market

Underinvestment in innovation and commercialisation is a challenge for Europe across various technology sectors, in particular also for strategic technologies. This manifests itself in difficulties to bring innovative products and services to the market. To square this circle, innovative companies need access not only to financing for R&D. They also need access to **financing for innovation activities that support the commercialisation, market uptake and diffusion of innovative solutions**. Such financing **can take various forms** (such as tax incentives, grants, loans, acquisition contracts, equity investments, guarantees and risk-sharing schemes). To reach sufficient critical mass of investments, EU and national public financing could be combined in a smarter way and act as a leverage to crowd in additional private financing.

#### **Current situation**

14. To what extent do you agree with the following statements?

	Stro ngly agr	A g r	N e u t	Dis agr ee	Stro ngly disa	N o op
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	ee	e e	ra l		gree	ini on
To bring R&D successfully to the market, it is important to increase not only <b>public investment in R&amp;D</b> but also simultaneously <b>public investments in innovation</b> .	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Raising investments in strategic technologies</b> is particularly needed, due to their economic importance and high up-front costs and risks	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Public investment in innovation</b> needs to be strengthened in order to close the innovation gap with other parts of the world.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Raising public investment in innovation would have a <b>positive effect on raising private investment</b> in innovation.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

15. What are the **most important barriers** that you are facing to raise sufficient public and private investment to bring innovative solutions to the market? (400 words maximum)

We fully support the Commission's goal of ensuring that innovative companies, including startups, can access the capital they need to scale up in the EU. In our view, these companies lack access in particular to long-term capital to develop into late-stage growth and commercial success.

We identify the following barriers to private investment in innovative companies:

- Incomplete **Capital Markets Union** and insufficient number of **sizeable investment funds** capable of financing the growth of innovative companies;
- **Insufficient investment by retail, institutional and international investors**, in particular through private equity funds which can support the development of innovative companies, bringing them both financing and expertise;
- Additional regulatory barriers including inadequate **definition of SMEs**, **ill-designed EuVECA regulation**, lack of **harmonized regime** at the EU level for innovative companies (inconsistent rules across Member States raise costs, slow time-to-market, and reduce legal certainty for both businesses and investors);

- The **number and complexity of European support schemes** and the **lack of visibility** on the different financing solutions available to innovative companies. In addition, public investment tools often create parallel structures that fail to crowd in private capital.

### ***Possible way forward***

16. To what extent do you agree with the following statements? Good steps forward are:

	Stro ngly agr ee	A g r e e	N e u t r a l	Dis agr ee	Stro ngly disa gree	N o o p i n i o n
Develop an <b>EU action plan or roadmap</b> to raise the level of innovation investment across the EU.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Develop <b>national action plans or roadmaps</b> , in conjunction with the EU, for raising innovation investment in Member States.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Monitor the level of innovation investment in the EU</b> , and benchmark this against investments in other parts of the world.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ensure that there is an appropriate balance between <b>supply- and demand-driven innovation</b> , in public innovation investment.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Cooperate/align with the private sector</b> to raise the level of public and private innovation investment in the EU.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Develop specific <b>innovation investment pathways</b> to accelerate time it takes for <b>strategic technologies to reach the market</b> .	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Move to <b>more agile governance structures</b> to combine national, EU and private financing for opening these innovation investment pathways.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

17. Are there any **other concrete actions that could be taken** to raise public or private investment in innovation across the EU? Please share any good practices or lessons learned from inside or outside the EU. (200 words maximum)

**Unlocking the full potential of the EU private equity sector - including venture capital, private equity, infrastructure and private debt - is essential for the mobilization of much-needed private and patient capital into our startups and scaleups.** Indeed, private equity can further propel innovation and contribute to overall prosperity by providing funding and expertise to French and European businesses to help them navigate transformations at every stage of their development. In addition to financing, private equity actors help small and medium-sized businesses grow by providing them with expertise.

We put forward **proposals to foster investment in innovation**:

- **Complete the Capital Markets Union** and launch EU initiatives to encourage the development of sizeable investment funds capable of financing the growth of innovative companies;
- **Encourage retail investors to invest in innovation**, in particular through private equity funds: improve their financial education, implement a single European savings product/label, encourage co-investments with the EIF, encourage fiscal incentives for retail investors who invest in innovation. Financial education should also be improved, and distributors should be adequately trained; Excessive protection of retail investors may not only inhibit profitable investment opportunities but also lead some citizens, notably the youngest or most vulnerable, to resort to unregulated products;
- **Entice institutional investors to support innovation**, in particular through private equity funds: foster the establishment and growth of pension funds or schemes and encourage them to partly invest in private equity funds, encourage European institutional investors to invest more in private equity, encourage State guarantees to ensure redemption priority and a guarantee on return for private investors which invest in innovative projects, involve more corporates in corporate venture schemes, share good practices on national initiatives which could be implemented in other Member States or across the EU;
- **Attract more cross-border and foreign investments into innovation**, in particular through private equity funds: adapt the rules to encourage European private equity funds to raise cross border and international money;

- **Enhance the European regulatory framework to direct more savings towards innovation:** introduce an “innovation test”, adapt the European definition of SMEs: ensure that start-ups and scale-ups backed by private equity funds benefit from the same advantages as other SMEs, facilitate investment in innovation through a revision of the EuVECA Regulation, introduce a label/28<sup>th</sup> regime for companies to identify innovative businesses;
- **Access to European support schemes should be simplified:** it should be easier for market players to access information on the various schemes and to identify the appropriate points of contact. In addition, **visibility on the different financing options available to innovative companies should be enhanced.** Businesses operate with a long-term perspective and require clear and consistent visibility on the financing support solutions they can leverage.

## 2.2. Access to IPR-backed financing

Start-ups and scale-ups that achieve not only successful protection but also successful valuation of their IPRs, are considerably more likely than others to obtain financing from investors and to successfully exit via an initial public offering or a sale to another company. However, there are various obstacles that block start-ups and scale-ups from obtaining IPR financing. Removing these obstacles at EU level could help start-ups and scale-ups across the EU to use their IPRs as a means of securing more financing from investors.

### **Current situation**

18. Do you / your organisation have any experience with IPR-backed financing?

- ☐ Yes ☐ No  
☐ Don't know

19. If so, were you able to successfully provide or receive financing?

- ☐ Yes ☐ No  
☐ Don't know

20. If not, in your experience, what were the main obstacles to successfully completing IPR-backed financing? (200 words maximum)

21. To what extent do you agree with the following statements?

Key barriers preventing start-ups and scale-ups from obtaining IPR-backed financing in the EU are:

	Stro ngly agr	A g	N e	Dis agr	Stro ngly disa	N o op

	ee	r e e	ut ra l	ee	gree	ini on
The <b>prudent attitude</b> of banks and institutional investors to engage in IPR- backed financing.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are <b>regulatory barriers</b> that hamper wider implementation of IPR-backed financing in the EU.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Lack of experience</b> with IPR valuation among banks and/or institutional investors in the EU.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>The costs of IPR valuation</b> for start-ups and scale-ups in the EU.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of <b>trustworthy, widely accepted standard practices</b> for valuing IPRs.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Lack of experience</b> with IPR valuation <b>among start-ups/scale-ups</b> in the EU.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It is not common practice among start- ups/scale-ups in the EU <b>to make IPRs visible in their annual accounts/financial reports.</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Lack of secondary markets</b> with sufficient critical mass and liquidity for resale of IP rights by lenders.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

22. If you **strongly agree or disagree** with any of the above statements, please explain your answers by, where applicable, referring to your own experience in IPR-backed financing. If you strongly agree or disagree with more than one of the above statements, please explain whether you think that any of those barriers are more or less critical than others. *(200 words maximum)*

In Europe, financial institutions are generally rather conservative and rely heavily on tangible collateral (such as real estate, machinery). In particular, the absence of robust secondary markets for IPR and limited

expertise in IPR valuation reduce lenders' willingness to accept IPR as collateral.

More specifically, protection of intellectual property should be enhanced in order to increase the likelihood of investment. Indeed, a robust IP protection strategy can enhance a company's ability to attract investors, thereby securing financial resources to further invest in innovation and its protection. For instance, the EPO/EUIPO (2023)<sup>2</sup> found that startups with patent or trademark activity are more likely to obtain PE or VC financing than those without IPR protection.

In addition, it would be helpful if property rights were recognized consistently in all Member States.

23. If you think that there are **other barriers, in particular specific regulatory barriers**, please explain why they constitute a barrier and how critical they are to obtaining IPR-backed financing. (200 words maximum)

#### **Possible way forward**

24. To what extent do you agree with the following statements?

The following measures are important for the wider implementation of IPR-backed financing in the EU:

	Strongly agree	Agree	Neutral	Strongly disagree	Disagree	No opinion
Introduce <b>clearer rules</b> for banks and institutional investors in the area of IPR- backed financing.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Establish or appoint an institution or facility to take on part of the risk in individual IPR- financing instruments e.g. by providing <b>public financial guarantees</b> for individual loans.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Create <b>EU guidance and training for banks/institutional investors</b> on how to implement start-up/scale-up-friendly IPR valuation in line with the principles	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



<p><b>Create an IPR marketplace</b> with sufficient critical mass and liquidity (EU wide, and possibly connected to others around the world).</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p><i>If you agree with the previous statement, please also respond to this one:</i></p> <p>This IPR marketplace should be established <b>by private actors</b> (e.g. IPR auctioneers) with the support of public institutions.</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

25. If you **strongly agree or disagree** with any of the above statements, please explain your answers by, where applicable, referring to your own experience in the area of IPR-backed financing. (200 words maximum)

26. If you have any **other solutions** that could help remove the barriers that hamper IPR-backed financing in the EU, please explain what those solutions are and why they could be effective. Feel free to provide information on **good practices or lessons learnt from unsuccessful experience** in this area. (200 words maximum)

### 3. Access to Talent

#### 3.1. Talent attraction and retention

Innovative companies rely on highly skilled workers to develop their innovative solutions and scaling. Employee ownership schemes, such as employee stock options, are a powerful tool that can help innovative companies attract and retain talent. However, innovative companies in the EU face hurdles when it comes to offering such schemes to their employees.

The public consultation on the 28th regime includes questions on employee stock options. However, this tool can also work for other innovative companies that do not have the 28th regime company statute but could benefit from provisions on stock options under the European Innovation Act. The Commission will therefore take into account the replies to both consultations in its future work on this topic.

#### **Current situation**

27. To what extent do you agree that the following challenges are preventing innovative companies in the EU from attracting and retaining talent?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	No opinion
The difficulties to offer <b>globally competitive benefits and remuneration</b> , including employee ownership schemes (such as employee stock options).	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The <b>lack of harmonised conditions for employee stock option schemes</b> across EU Member States (for example, in terms of taxation and employee and company eligibility).	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The lack of <b>mutual recognition of employee stock option schemes</b> across EU Member States.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

28. Are there any **other key challenges** as regards talent attraction and retention through employee stock options that you would like to highlight? (200 words maximum)

Hiring the right talent ranks among the top bottlenecks for the growth of European innovative startups. European innovative startups are unable to compete for talent with salary and benefits alone. However, they can offer employees a meaningful ownership stake, in the form of stock options – rewarding the risk employees take with a young unproven business with a promise of a payout should the startup succeed.

**Employee stock options are a vital tool for startups and scaleups to attract and retain talent**, especially when they cannot offer globally competitive salaries. These incentives align long-term interests and help early-stage companies recruit the skilled workers they need to grow. However, **the patchwork of national tax and legal regimes across the EU makes it difficult to implement stock option schemes at scale or across borders**, deterring both cross-border hiring and mobility.

In addition, **fiscal incentives or social charge reliefs** (e.g. CIR and JEI in France) aimed at encouraging investment in R&D should be introduced / maintained. Furthermore, **stability and predictability** of these schemes should be ensured.

Last, the number of students and the amount of subsidies for **reskilling in innovative sectors** (AI...) should be increased. Competition for talents is not only intra-EU but mostly with non-EU jurisdictions.

### ***Possible ways forward***

29. To what extent do you agree that the following solutions would be positive steps towards tackling the challenges identified?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	No opinion
Develop a <b>harmonised framework with common standards on the scope of national employee stock option regimes</b> (for example, covering taxation, employee and company eligibility, and shareholder and dividend rights).	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Develop a <b>safety net</b> that protects employees in the case of unforeseen events (e.g. where the employee is made redundant because the company goes out of business, or where employees are asked to move to another EU country due to company restructuring).	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Align tax regimes across the Member States</b> as regards the point and type of taxation for employee stock options.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Adopt a <b>common EU valuation mechanism</b> to determine the value of the employee stock option.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Ensure the **mutual recognition of employee stock option schemes** between Member States.

30. Are there any **other possible solutions** for talent attraction and retention through employee stock options that you would like to highlight? (200 words maximum)

A harmonised framework that allows the implementation of stock option schemes across borders without triggering unpredictable or unfair tax treatment should be introduced, including uniform tax rules on the grant, vesting, and sale of shares regardless of corporate law status and jurisdiction, in addition to mutual recognition of tax treatment and valuation rules for equity awards between Member States. These changes would reduce administrative burden, including redundant or costly appraisals and the risk of disputes with tax authorities, increase legal certainty, and make it easier for companies to offer competitive incentives and hire cross-border talent.

#### 4. Access to Markets

#### 4.1. Accessing the private procurement market

Private buyers can be significant customers for innovative companies. A first customer reference from a well-known industry player can help to raise the profile of an innovative solution and attract other customers. However, it can be challenging for innovative companies to find private buyers for their innovative solutions in the EU. The evolving international landscape also makes it challenging for EU companies to ensure that their supply chains are resilient and to contribute to EU technological sovereignty.

### Current situation

31. To what extent do you agree with the following statements about the private procurement market in the EU?

[illegible]

<b>solutions.</b>						
Private buyers in the EU are still too risk- averse to buy solutions from smaller innovative companies.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There is a need to <b>ensure a level playing field so that innovative EU suppliers</b> can compete with non-EU suppliers on the private procurement market.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
EU companies are facing <b>supply chain dependencies, including the risk of over- reliance on non-EU products</b> , especially concerning products that rely on strategic technologies that are key to safeguarding EU resilience and EU technological sovereignty.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are <b>legal barriers or a lack of regulatory incentives or simplifications</b> that hold back private buyers from buying in a more innovation-friendly way and/or to increase their resilience.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

32. Please let us know if, **as a supplier, you have experienced any other barriers to bringing innovative solutions** to the private procurement market in the EU, and please provide any suggestions you may have on how to overcome such barriers. *(200 words maximum)*

We generally agree that **access to both public and private procurement markets should be facilitated for innovative companies**, and a larger share of public procurement should be devoted to innovation. The current revision of the public procurement package directives could serve as a tool for this improvement in favor of innovation and quantitative objectives could be envisaged. For instance, increasing the portion of EU public procurement in innovation could be considered.

33. Please let us know if, **as a private buyer, you have experienced regulatory or other barriers** that deter you/your company to procure in a more innovation-friendly way and to improve the resilience of your operations/supply chains. In particular, please tell us if there are specific regulatory simplifications or legal incentives that could be introduced to make it easier for your company to procure in a more innovation-

[illegible]

Private buyers that own/operate critical infrastructures should adopt procurement practices that enable access to innovative solutions and facilitate participation by startups. These should support the development of strategic technologies** within national or European ecosystems and help reduce dependencies on external suppliers.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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\* Some **private buyers** own or operate **critical infrastructure** that offer essential services that underpin functions or economic activities that are vital to society in the EU (e.g. telecom operators, airline operators etc.)

\*\* **Technologies that are of strategic importance to EU economic security** (such as microchips and AI). These tend to be high-tech, innovative technologies that are often building blocks or enablers for many other products/systems that are used by critical infrastructure.

Private buyers need to be able to incorporate innovations that they buy from other smaller innovative companies in the solutions that they will sell to private or public customers. However, private buyers may experience difficulties in doing this, when there are conflicts between the IPR policy of their customers and the IPR policy governing their supply chain (e.g. when customers require the private buyer to transfer IPR or require broad, exclusive licenses). As a result, fewer suppliers may be willing to deliver innovations to a private buyer.

Private buyers often also need to be able to cooperate with universities and/or their spinoffs or to use their IPR when working for private or public customers. However, private buyers may experience difficulties in doing this when there are conflicts between the IPR policy of their customers conflicts and that of the university (e.g. when the university requires full IPR ownership or exclusive licensing rights that are in conflict with IPR rights/licenses required by the customers of the private buyer). As a result, private buyers may not be able to cooperate with universities or their spinoffs to deliver innovations to their customers.

35. To what extent do you agree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	No opinion
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	ee	e e	ra l		e	on
Private buyers in the EU face challenges in commercializing innovations from their supply chain due to misalignments between the intellectual property rights (IPR) policies of their <b>suppliers</b> and those of their customers	○	○	○	○	○	○
Private buyers in the EU are hampered in commercialising innovations from universities due to conflicts between the IPR policies of <b>universities</b> and that the IPR policies of their customers.	○	○	○	○	○	○

#### 4.2. Accessing the public procurement market

Public procurement has great potential to drive the development and deployment of innovative solutions from the demand side. However, EU benchmarking of national innovation procurement investments ([https://research-and-innovation.ec.europa.eu/strategy/support-policy-making/shaping-eu-research-and-innovation-policy/new-european-innovation-agenda/innovation-procurement/benchmarking-innovation-procurement-investments-and-policy-frameworks-across-europe\\_en](https://research-and-innovation.ec.europa.eu/strategy/support-policy-making/shaping-eu-research-and-innovation-policy/new-european-innovation-agenda/innovation-procurement/benchmarking-innovation-procurement-investments-and-policy-frameworks-across-europe_en)) shows that while healthy economies around the world invest at least 20% of public procurement in innovation procurement, in the EU this figure is much lower - a little over 10%.

##### ***Current situation***

A group of experts appointed by the EC ([https://research-and-innovation.ec.europa.eu/strategy/support-policy-making/shaping-eu-research-and-innovation-policy/new-european-innovation-agenda/innovation-procurement/eu-policy-initiatives-innovation-procurement/bringing-down-legal-barriers-innovation-procurement\\_en](https://research-and-innovation.ec.europa.eu/strategy/support-policy-making/shaping-eu-research-and-innovation-policy/new-european-innovation-agenda/innovation-procurement/eu-policy-initiatives-innovation-procurement/bringing-down-legal-barriers-innovation-procurement_en)) analysed legislative barriers in Europe that prevent innovative companies from accessing public procurement and from growing their businesses across the EU market. Such barriers may appear in public procurement processes that fall under the EU public procurement directives, and those outside them.

##### ***Possible way forward***

The upcoming revision of the EU public procurement directives will seek ways of making the public procurements that fall under those directives more innovation-friendly. Accordingly, this public consultation

However, 70% of public procurement, including often R&D services procurements and other types of procurements of innovative solutions, are implemented outside of those directives. In this context, the EU European Innovation Act may provide a fast-track procedure for public procurement of R&D services falling outside the public procurement directives, including pre-commercial procurement as a leverage to increase total investment in public innovation procurement. Such procurement of R&D services may procure only R&D activities, or a combination of R&D activities and first innovative solutions resulting from R&D.

36. To what extent do you agree with the following expert recommendations for addressing the barriers faced by innovative companies in such public procurement?

[illegible]

<p>In order to ensure that IPR conditions used in public procurement that buy R&amp;D and/or innovative solutions do not deter suppliers from protecting and commercialising their innovations, public buyers should <b>buy only those IPR rights that they really need</b>. <i>(studies show that usage rights and some licensing rights tend to be sufficient, and that full transfer of IPR ownership to the buyer is only needed in limited situations).</i></p>	○	○	○	○	○	○
<p>To ensure that public buyers give suppliers <b>sufficient room to offer innovative solutions</b>, such public procurements that buy R&amp;D and/or innovation solutions should make <b>wider use of functional or performance-based specifications</b>.  <i>Such specifications do not prescribe the solution to be delivered but, rather, the problem to be solved, and leave it to suppliers to propose the best solution to meet the required functionalities or performance levels.</i></p>	○	○	○	○	○	○
<p>In public procurements for <b>buying R&amp;D and/or innovative solutions</b>, contracts should be awarded <b>based not only on lowest price, but also on other criteria</b>.</p>	○	○	○	○	○	○

For this type of procurements, it would be helpful to create a set of <b>EU innovation procurement criteria</b> that provide legal certainty on how public buyers can take into account factors other than price, such as i) the quality of different types of innovative solution and of various strategic technologies that the solutions may rely on, ii) the EU added value, iii) innovation impact and iv) the total cost of ownership of an innovative solution.						
The EU should provide legal clarity on how <b>value engineering</b> can be used in such public procurements that buy R&D and/or innovative solutions.  <i>This would enable public buyers i) to accept proposals from their suppliers to incorporate new technological improvements that become available only during contract implementation (e.g. to improve quality/performance at the same cost or lower cost) and ii) to provide contractors financial incentives for engaging in such an approach.</i>						
Payment methods used in public procurements that buy R&D and/or innovative solutions should be made more suitable for start-ups and scale-ups: e.g. by increasing the use of <b>pre- financing payments</b> and <b>accelerated payments</b> to start-ups and scale-ups (e.g. within 15 days)						



critical mass of demand that enables innovative companies to grow across the EU.						
Clear legal provisions should be provided for how public buyers can <b>reinforce EU technological sovereignty</b> in procurements that buy R&D and/or innovative solutions.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Public buyers that own/operate critical infrastructure*</b> should take special care to procure in a more innovation-friendly way. <i>Why? Firstly, the procurement of R&amp;D and/or innovative solutions can help <b>upgrade their critical infrastructure with cutting edge solutions</b> that are essential for them to deliver high quality, safe and robust essential services to society, and, secondly, it can help them to <b>diversify their supply chains with innovative companies</b> and <b>prevent over-reliance</b> on non-EU suppliers that could have a detrimental effect on the security of supply of strategic technologies.</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Public buyers that own/operate critical infrastructure*</b> should award public contracts for R&D and/or innovative solutions that rely on <b>strategic technologies not only based on the lowest price, but also on other criteria.</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

\* Some **public buyers** own or operate **critical infrastructure** that offer essential services that underpin functions or economic activities that are vital to society in the EU (e.g. government data networks, energy and water utilities)

37. Please let us know if, as **public buyer** or as **supplier of R&D services and/or innovative solutions**,

**you have experienced other barriers** in the EU, and we would ask you to provide any suggestions you may have as to how to overcome such barriers. *(200 words maximum)*

38. Are there any **other aspects not mentioned above** that should be looked at for the procurements that could be covered by European Innovation Act, that you think need clarification? *(200 words maximum)*

Public procurement can enhance the resilience, industrial and economic development, and strategic autonomy of the EU. Increasing objectives in terms of sovereignty in public spending can have a positive impact at EU level (on the resilience of our health sectors, our security, economic growth and job creation). Yet, strategic procurement in the EU remains limited to some industries (cleantech, supercomputers, artificial intelligence, cybersecurity...), whereas it is much more widespread in the US. European preference in procurement could be extended.

In both private and public procurement, **brand and overall awareness of European innovative actors is crucial to boost their adoption**. One of the greatest outcomes of the *French Tech* initiative is that it has built a branding around the French ecosystem of startups. The EU should work on marketing tools to increase knowledge of European solutions to a wider audience and make them attractive for private and public buyers.

#### 4.3. **Stimulating innovation procurement through R&I policies**

R&I policies in Europe are gradually shifting towards supporting demand-driven R&I, rather than focusing solely on the supply side. EU benchmarking ([https://research-and-innovation.ec.europa.eu/strategy/support-policy-making/shaping-eu-research-and-innovation-policy/new-european-innovation-agenda/innovation-procurement/benchmarking-innovation-procurement-investments-and-policy-frameworks-across-europe\\_en](https://research-and-innovation.ec.europa.eu/strategy/support-policy-making/shaping-eu-research-and-innovation-policy/new-european-innovation-agenda/innovation-procurement/benchmarking-innovation-procurement-investments-and-policy-frameworks-across-europe_en)) shows that so far 22 EU Member States have recognised that fostering innovation procurement is a strategic priority in their national R&I policies. However, innovative companies are still struggling to bring their innovative solutions to the public and private procurement market.

The Draghi report ([https://commission.europa.eu/document/download/ec1409c1-d4b4-4882-8bdd-3519f86bbb92\\_en?filename=The%20future%20of%20European%20competitiveness\\_%20In-depth%20analysis%20and%20recommendations\\_0.pdf](https://commission.europa.eu/document/download/ec1409c1-d4b4-4882-8bdd-3519f86bbb92_en?filename=The%20future%20of%20European%20competitiveness_%20In-depth%20analysis%20and%20recommendations_0.pdf)) and EU expert reports ([https://research-and-innovation.ec.europa.eu/strategy/support-policy-making/shaping-eu-research-and-innovation-policy/new-european-innovation-agenda/innovation-procurement/eu-policy-initiatives-innovation-procurement/bringing-down-legal-barriers-innovation-procurement\\_en](https://research-and-innovation.ec.europa.eu/strategy/support-policy-making/shaping-eu-research-and-innovation-policy/new-european-innovation-agenda/innovation-procurement/eu-policy-initiatives-innovation-procurement/bringing-down-legal-barriers-innovation-procurement_en)) highlighted that there is still a lack of EU and national action plans for innovation procurement and that innovation procurement is still insufficiently rooted in R&I policies to help companies bring their innovative solutions to the procurement market and to support and encourage buyers to buy in a more innovation-friendly way.

Therefore, as highlighted in the May 2024 EU Council conclusions on knowledge valorisation

## Investors for growth

(<https://ec.europa.eu/eusurvey/consilium.europa.eu/en/press/press-releases/2024/05/23/council-adopts-conclusions-on-strengthening-knowledge-valorisation/>), there is a need to better anchor support for innovation procurement in research and innovation policies across Europe.

39. To what extent do you agree with the following expert recommendations for improving strategic planning and anchoring of innovation procurement in research and innovation policies?

[illegible]



monitoring of progress and iv) the creation of innovation procurement incentives for public and private buyers.						
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The EU should <b>make procurement of EU institutions and EU agencies more innovation-friendly</b> , so as to enable the monitoring of innovation procurement investment of EU institutions and EU agencies, thus enabling this aspect to be reflected in total EU-wide R&I investment.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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## 5. Access to infrastructures

### 5.1. Access to research and technology infrastructures

Research Infrastructures and technology infrastructures\* can provide resources (such as advanced equipment, infrastructure and data collection) and services (such as R&D and testing services, consulting on experimental design and business-acceleration services). This can prove helpful for both companies and end-users in terms of i) conducting R&D, including testing of innovative solutions, and ii) fostering innovation. However, small innovative companies and potential buyers of innovative solutions may find it difficult to find and access suitable research and technology infrastructure to support their innovation, technology development and testing.

\*Examples of research infrastructure include high-performance computing centres, biobanks, and climate and air-quality databases. Examples of technology infrastructure include biogas plants, clean-room facilities for chip production and test areas for road traffic safety solutions.

#### ***Current situation***

40. To what extent do you agree with the following statements about the relevance of access to research and technology infrastructure for your organisation.

[illegible]

Infrastructure staff are generally <b>aware of the needs of companies</b> such as mine and sufficiently tailor their standard experimental services to the specific needs of industrial users.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The research and technology infrastructures that I am familiar with are NOT sufficiently open to <b>small innovative companies or prepared to work with them.</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Research and technology infrastructures that I am familiar with are NOT sufficiently open to <b>public sector organisations</b> (e.g. to public buyers that want to test solutions) or prepared to work with them.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Legal, cultural or language barriers</b> deter me from using research and technology infrastructure available in another EU country.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Research and technology infrastructures offer <b>sufficient non-technological services other than experimentation</b> (such as consultation on experimental design and business- acceleration services).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

41. What are the **most significant challenges** your organisation has faced when accessing research and technology infrastructure in the EU?

- ☐ Limited availability of facilities,
- ☐ High access costs,
- ☐ Complex administrative procedures,
- ☐ Lack of information regarding available infrastructure and the services offered, ☐ Fragmented IPR management frameworks and confidentiality concerns,
- ☐ Legal barriers in terms of access to research and technology infrastructure in other EU countries.

42. Feel free to provide more information on any **difficulties, in particular legal barriers**, that you have experienced in accessing research and technology infrastructure in the European Union, how critical they

## Investors for growth

were and how to overcome them. (200 words maximum)

The primary need of startups is access to data.

### ***Possible way forward***

43. To what extent do you agree with the following statements about the possible way forward?

[illegible]

agreements with these infrastructures that clarifies specific contractual provisions such as IPR management and liability.

## 6. Encouraging commercialisation of publicly funded research and innovation

In Europe, only a third of the inventions patented by universities and research technology organisations (RTOs) are commercialised. SMEs and large companies are equally active as commercialisation partners. There is thus still significant untapped potential to commercialise the knowledge / IPR that is created in publicly funded research and innovation. This requires to foster the commercialisation of academic research results and to enable better collaboration between industry, academia and the public sector.

IPR policies in universities and RTOs are not always designed to incentivise academic researchers to become entrepreneurs themselves, or to transfer or license academic IPR efficiently to other companies on the market. Collaboration between industry, academia and public organisations can also be hampered when there are conflicts between the IPR policies of these different stakeholders. Standardisation, certification and permits are often a key requirement for placing a product on the market. However, academic researchers and small innovative companies such as university spinoffs and start-ups face difficulties with these processes due to their limited resources and pressure to start selling their products as early as possible.

### Current situation

44. To what extent do you agree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	No opinion
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[illegible]

Standardisation policies in European universities and RTOs are not sufficiently developed to fostering the commercialisation of academic research results.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are still <b>barriers to research and innovation collaboration</b> between industry, academia and public sector organisations.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

#### 6.1. Commercialisation of academic research results

##### *Possible way forward*

45. To what extent do you agree with the following statement about improving **the framework conditions for commercialisation of academic research results**?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	No opinion
Member States should adopt, if not yet in place, <b>strategies promoting commercialisation of publicly funded research results generated in universities and RTOs</b> , including intellectual asset management, spin-off creation, and go-to-market strategies.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

46. To what extent do you agree with the following statements about overcoming **IPR-related barriers** that hamper the commercialisation of academic research results?

	Strongly	Agree	Neutral	Disagree	Strongly	No

	agree	neutral	disagree	no opinion
European universities and RTOs should <b>have an IPR policy in place</b> that clearly outlines how they handle not only the protection, but also <b>licensing and transfer of intellectual assets</b> .	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
For all their publicly financed research, European universities and RTOs should <b>pursue adequate protection and commercialisation</b> of academic research results. To this end, every university/RTO should <b>have their own transfer office or set up joint transfer offices</b> between networks of universities / RTOs.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Incentives and reward mechanisms</b> , both financial and non-financial, should be put in place to motivate researchers and universities/RTOs to pursue robust IPR protection and to enable them to benefit from successful commercialisation of academic IPRs.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
IPR transfer and licensing processes should <b>mitigate liquidity issues for start-ups/spinoffs</b> , while allowing universities and researchers to benefit from the economic success of the commercialisation of academic research results. <b>Templates</b> should be made available for organising the IPR transfer/licensing process based on e.g. virtual shares or licensing conditions that draw liquidity out of the company only when it starts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

making profits from successfully selling the solution to customers on the market or when co-investors [e.g. Venture Capitalists] exit.						
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<b>Capacity building</b> (which includes technology scouting, identifying and assessing the appropriate technology transfer routes, IPR valuation, venture building, teaming up with investors and/or industry partners etc.) for staff in universities and RTOs should be strengthened to ensure that their technology transfer offices operate at high quality standards and facilitate the cross-border exploitation of knowledge.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>A Europe-wide platform should be available</b> to researchers and universities and RTOs where they can list their IPR assets. This would make it easier for them to contact companies interested in exploiting their IPRs and for investors to assess, value and invest in innovative projects.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

47. To what extent do you agree with the following statements about overcoming barriers relating to **standardisation and certification and obtaining permits for innovative solutions** that hamper the commercialisation of academic research results?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	No opinion
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It should become the norm in the EU that start-ups and scale-ups pay <b>reduced prices</b> for certification and permitting processes.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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## 6.2. Facilitating collaboration between industry, academia and the public sector

### **Current situation**

48. To what extent do you agree with the following statement?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	No opinion
Collaboration between industry, academia, other public sector organisations and buyers can be difficult when they work under <b>incompatible IPR policies</b> (e.g. if there is a conflict between a university's IPR licensing requirements for a spinoff conflict and the IPR requirements of IPR-backed financiers or those of public buyers, then the spinoff may have difficulty obtaining financing or taking part in public procurements).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

### **Possible way forward**

49. To what extent do you agree with the following statement?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	No opinion

	ee	e	I		agr ee	ni o n
To get innovations out of the lab into the market, <b>IPR policies should be better aligned across different forms of public financing for research and innovation</b> , so that innovators are not blocked from commercialising their IPR when using different types of public R&I financing, either in sequence or in combination.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

50. Feel free to provide information on any **difficulties you have experienced** in the commercial exploitation of publicly funded research and innovation, and please provide any suggestions you may have on how to overcome those difficulties. *(200 words maximum)*

**Building stronger connections between research, business and investment should be a key focus.**

- **Partnerships** between private equity funds and public research, for example through standard contracts that protect both confidentiality and intellectual property, should be simplified.
- **Effective bridges between key players in innovation should be built:** research institutes and inventors, entrepreneurs, clusters and public actors, investors and financiers. Bringing together the worlds of research, business, and investment is key.
- **Administrative relations** should be simplified and the **transfer of skills** from researchers to the private sector should be encouraged, while promoting the results of public research.

**Submitting additional files**

51. Thank you for your contribution. Please feel free to provide **further comments** or to attach a file. You may use this opportunity to provide us with further comments on specific questions raised by this consultation or any information on **other innovation barriers** that you think the European Innovation Act should address. You may also upload a paper summarising your view on the European Innovation Act or a **background document with evidence** that may help provide further grounds for EU action (e.g. evidence of specific innovation barriers that you have experienced or of different types of positive impacts that could be achieved by removing certain barriers). *(500 words maximum)*

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