

them to better take into account SMEs' intellectual assets<sup>59</sup>. The 'tech due diligence' pilot project announced in the SME strategy will be a way to test IP evaluation in a broader technology-related context<sup>60</sup>. Building upon the experience with existing bank guarantee mechanisms<sup>61</sup>, the Commission will also explore how guarantees to support SMEs and creators in projects based on IP can be better used.

In addition to these SME-oriented activities, the Commission Communication on "A new ERA for Research and Innovation"<sup>62</sup> highlights the need to turn the outcomes of Europe's excellent research into disruptive innovation and **promote better IP management in the wider R&I community**; in this respect the Commission will launch an awareness-raising campaign to foster valorisation of IP in the valuation of companies by investors. For instance, the Commission will update its Recommendation on the management of intellectual property in knowledge transfer activities via the Guiding Principles for Knowledge Valorisation. This revision will be accompanied by a Code of Practice for smart use of IP and combined with InvestEU support to project holders via technical, financial and legal advice including on intellectual property.

Steps will also be taken to **ensure that publicly funded IP is used in a fair and effective manner**. The Commission has already launched a new platform to favour the valorisation of EU-funded R&I results<sup>63</sup> and a platform presenting EU-supported R&I to tackle the spread of coronavirus and support preparedness for other outbreaks<sup>64</sup>. The aim is to **ensure that results achieved using EU funds are used to the benefit of the EU economy**. This is why, under the Horizon Europe programme, when IP on research results is to be exploited primarily in non-associated third countries, applicants will need to explain how this is still in the EU's interest<sup>65</sup>.

Furthermore, IP protection and broad diffusion of new technologies will continue to be a central element of R&I-related important projects of common European interest (IPCEIs) and funding under the European Regional Development Fund.

There is also a need to **improve the conditions for companies to protect and use IP in public procurement** with a view to stimulating innovation and boosting the economy. Member States should consider leaving IP ownership to the contractors where appropriate, unless there are overriding public interests at stake or incompatible open licensing strategies in place. As announced in the SME strategy, the Commission will clarify issues related to IP in public procurement in the update of the guidance on innovation procurement.

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<sup>59</sup> This can be done within InvestEU and will build on experience gained through the project "Finance, learning, innovation and patenting for cultural and creative industries" and the study on "[Financing intangibles: Is there a market failure?](#)", EC 2020.

<sup>60</sup> [Commission communication](#), SME Strategy for a sustainable and digital Europe, COM(2020) 103 final, 10 March 2020.

<sup>61</sup> See the [InnovFin SME Guarantee Facility](#) or the Culture and Creative Sectors Guarantee Facility.

<sup>62</sup> [European Research Area \(ERA\) Communication](#).

<sup>63</sup> See the [Horizon Results Platform](#).

<sup>64</sup> See [Coronavirus research and innovation](#) platform.

<sup>65</sup> Similarly, under the European Defence Fund (EDF) dedicated provisions have also been introduced to protect the results of financially supported R&D actions and their availability in the EU. These include an obligation to notify ex ante the Commission in case of transfer of ownership of results and related IP (and of granting of exclusive licences for research actions) to non-associated third countries or third country entities, and an obligation to reimburse the EU funding in case such a transfer of results/IP would contravene the security and defence interests of the Union and its Member States or the objectives of the EDF.