

Crunch TIME



As the credit crunch takes hold, will entrepreneurs stand to suffer or prosper? Richard O'Connor, general manager, Cruickshank Intellectual Property Attorneys, says the answer may not be as simple as it seems.

At first glance it may seem illogical, but the current economic situation is likely to cause an increase in entrepreneurship.

As belts tighten and some are shaken from the safety of their 'secure jobs', many will turn to entrepreneurship.

The closure of the digital plant in Galway in 1993 led to the creation of a myriad of new start-up companies as highly skilled workers without a ready source of alternative employment used redundancy payments to set up new businesses.

With a new job a less definite prospect, taking the entrepreneurial leap and forming your own company can seem comparatively less risky than in sunnier economic climes.

There has been a lot of media attention drawn to the credit crunch and the challenges and obstacles to entrepreneurship it has created.

More and more companies are pulling back on spending, the dollar is falling; low cost competitors are emerging, particularly in the east; and companies are adopting more risk-averse stances.

This may open as many doors as it closes, with companies looking to outsource both routine and specialist tasks as well as being more open to cutting costs through the use of innovative products and services.

Innovative products and services, however, are not enough for entrepreneurs today. Markets are required too. The dot com boom of the late 1990s and early 2000s were based on notional products with perceived markets.

When those markets failed to materialise, many companies

suddenly discovered that good ideas are no match for sales and profits.

Entrepreneurs today must focus on innovative solutions to existing problems that fit into established markets. It's far easier – not to mention faster – to sell your new product or service into an existing market where you have a competitive edge than it is to create a new market from scratch.

GOVERNMENT AND ENTREPRENEURSHIP

A credit crunch does, however, restrict financing options for budding entrepreneurs. It's important that the Government steps in to address these issues at an early stage.

The increase in the Business Expansion Scheme limits announced in the 2007 Budget were welcome. This has served to increase the pool of funding available to entrepreneurs. The Government must now move urgently with additional schemes targeted specifically at start-up entrepreneurs.

A reversed income tax write-off, for example, might assist budding entrepreneurs to find the additional funds needed to kick-start a business. This would allow an owner-manager of a qualifying start-up to claim tax relief on the previous financial year's income to the value of the initial company investment.

This could boost the start-up funds available to an entrepreneur by up to 40%. The costs to the Exchequer would likely be balanced by the beneficial returns from successful graduates of the scheme.

Entrepreneurship from overseas can also help to boost the economy.

In 2004, Singapore's Ministry of Manpower introduced a scheme called EntrePass. This made it easier for entrepreneurs to gain visas on the basis of their business plans, and not just salaries, qualifications or existing jobs.

The EntrePass visa is renewable for as long as the business is ongoing and commercially viable. Imaginative ideas such as this can stimulate entrepreneurship here too.

The time for Government to adjust existing models of entrepreneurial enticement and assistance is now, before the worst effects of the global downturn hit entrepreneurs.

Government must deal with the problems of tomorrow today, rather than the problems of yesterday tomorrow.

PROPERTY AND ENTREPRENEURSHIP

Studies on the links between entrepreneurship and property values provide some interesting and potentially worrying results.

In the US, recent research from Small Business Watch has shown that about 30% of small business owners and entrepreneurs have used either a second mortgage or loan based on equity in their home to help finance their business.

In Ireland, anyone who purchased a family home, or other property, more than five years ago now has huge sums of money available to be tapped as equity. A budding entrepreneur who purchased a house in 1996 at the average price of €80,000 will today have almost €200,000 available in equity – and that's not including the amount paid off on the mortgage in that time.

This has a knock on effect where

property value can be linked to entrepreneurship – not least through the availability of spare capital.

Robert Fairlie, professor of economics at the University of California, examined residential property values by region and found a 20% increase in entrepreneurial activity for every 10% increase in home value in an area. For comparison, in Ireland between 1996 and 2006, the average yearly property price increase recorded by the ESRI was 14.9%.

The reverse trend is now being experienced in the US, with the reduced equity in many people's homes due to falling property prices being at the heart of the problem.

Ireland may be experiencing the same problems, although our property price falls have been too gentle and, as recent revelations about claimed sale prices have shown, too poorly recorded for the trend to be formally analysed.

Only those who have purchased recently will have seen any significant narrowing between their equity and outstanding borrowings, while the majority of owners still have extensive capital potential available.

STUDENT ENTERPRISE AWARDS

If we're to stimulate entrepreneurship in these difficult economic times, we need to assist people in gaining the experience required to run a successful start-up company.

The Student Enterprise Awards, sponsored by Enterprise Ireland, Cruickshank Intellectual Property Attorneys and Invest NI, are a first exposure for students to the concept of a business plan and the



commercialisation of an idea.

Individual entries may not go on to be glittering successes, but the support and mentoring provided means future efforts have a far higher chance of success. The lessons learned, particularly about how to bring an invention or innovative idea to market, stand to the entrants for decades to come.

Entering the Student Enterprise Awards is equivalent to going through the full process of getting Enterprise Ireland funding. Students must present a business idea, and must show how it would be commercialised and brought

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successfully to market. They must also show how they would protect their ideas using patents and trademarks. This is a wonderful practical learning exercise, and gives students knowledge they could never pick up solely from a textbook.

Last year's winning team, Apri-Cot from Cork Institute of Technology, says that its technology was good, but that in hindsight its submission was commercially weak. When it looked at the intellectual property aspect of the invention, the real commercialisation opportunities became apparent.

The skills the team picked up from going through the Student Enterprise Awards process meant that they learned what the actual commercial application of their product was.

Having a great innovative idea is good, but unless you know how to enact it commercially it's ultimately worthless.

PROTECTING INNOVATION

In a downturn, individuals and

companies become much more protective of their intellectual property. Infringement actions – cases taken by patent or trademark holders against those they believe are breaching their rights – become more common. It's therefore vital that companies ensure that their innovations are patented and that their brands are trademarked.

Before making an investment of time and resources to bring an innovation to prototype stage, entrepreneurs should sit down with an intellectual property attorney to ensure that what they're doing can be protected, and that someone else hasn't already had the same bright idea and patented it. The cost of defending or prosecuting an avoidable intellectual property law suit could cripple a small company.

Even those who aren't creating something patentable should ensure that company names and brands are protected. Many business owners believe that by registering their trading name with the Companies Registration Office they are protected from

misrepresentation by competitors.

However, the common-law system for proving what is termed 'passing off' is difficult because you are often dealing with unregistered rights. Costly court proceedings are often the outcome, and results are difficult to predict. A registered trademark dispute, on the other hand, can be relatively clear cut, allowing the owner of a registered right have an injunction placed on the infringer for a tenth of the cost of when the right is unregistered.

Every company should ensure that its company name, trading names and product or service brands are trademarked. In fact anything that distinguishes your brands from your competitors should be protected. For a relatively small outlay, the start-up entrepreneur can be protected against aggressive competitors trying to copy them, impersonate their business or trade on their reputation.

The crunch is a time to be entrepreneurial. With much spare cash still floating around the economy from the Celtic Tiger years, the capacity of potential entrepreneurs to take a few years out of the job market to pursue their dream has rarely been higher.

David Hsu, assistant professor of entrepreneurial management and technology strategy at University of Pennsylvania, interviewed in Business Week, says that his studies show that "firms founded in recessionary times tend to do better in the long run".

Our experience as intellectual property attorneys, working with some of the most influential innovators and entrepreneurs over the last eighty years, reflects the same trend in Ireland.

Those whose entrepreneurship is done at the bottom of the market are perfectly placed to be carried by the subsequent rise – often to the top of the market. A rising tide may not lift all boats, but better to be in a boat than standing on the shore when the tide comes in. *Richard O'Connor is general manager of Cruickshank Intellectual Property Attorneys*