

B.C. TECHNOLOGY SECTOR MAKES THE GRADE – BUT NOT YET TOP OF THE CLASS

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In November 2020, KPMG released the British Columbia Technology Report Card – Tackling the Scale-Up Challenge (the “**Report Card**”) which provided a valuable glimpse into the current state of the British Columbia technology sector as compared against other sectors in BC and other tech sectors across the country. B.C.’s technology sector scored top marks compared to other industrial sectors within the province. However, when comparing B.C.’s technology sector to the technology sectors in other provinces, the Report Card gave B.C. only a “B” grade.^[1] While the Report Card gave B.C. generally good grades across the board, its technology sector ranking relative to other jurisdictions is one area where additional focus and improvement can help make B.C.’s technology sector a leader in both Canada and globally. Thankfully, as outlined in McMillan’s June 2020 bulletin [Making B.C. an Emerging Economic Leader](#), the B.C. government has already recognized the need for change to improve the competitiveness of the province’s industries, including by promoting flexible practices and policies, harnessing intangible capital and intellectual property, increasing diversity in the workforce, and minimizing pollution and environmental degradation.^[2] The province has begun to implement these changes by funding research and development and training programs for participants in the technology sector. Despite this, the Report Card found that industry leaders and the provincial government must take further steps for the technology sector to continue to grow.

How Did B.C. Score?

By reviewing and comparing B.C.’s sector performance in relation to other provincial industries, other Canadian technology sectors and other domestic and international jurisdictions, KPMG concluded that, while B.C.’s technology sector is generally healthy, it has not grown as quickly or as big as would be expected. In part, this is because B.C. tech companies have generally tended to remain small and sell early. The traditional business model among many B.C. technology companies is to identify a great idea or piece of technology, commercialize it, and then sell the company to a larger player. As a result, the B.C. technology sector has failed to foster the growth of start-ups or emerging technology companies into large companies that are capable of anchoring a large technology sector.^[3] A consequence of this shortcoming is that the B.C. technology sector has been unable to scale-up to reach its full potential.

As identified in the Report Card, the B.C. technology sector has underperformed in relation to the number of medium to large sized companies operating in that sector in B.C. Their absence limits the sector's ability to grow to the heights expected. In addition, while the number of small and medium-sized companies has remained relatively consistent since the last Report Card in 2018, there are still only 22 companies in B.C.'s technology sector that employ at least 500 people. The Report Card concludes that the threshold for being among the top 10% of technology companies in B.C. is to have at least 50 employees. By way of comparison, the same threshold in Canada is 100 people, 150 in Germany, 200 in Israel and 500 in California.^[4]

To address this shortcoming, the Report Card calls for more sustained multi-year public investment programs to help smaller technology companies grow from small to medium-sized and from medium to large-sized. The BC Tech Association's President Jill Tipping highlighted in her foreword to the Report Card a clear need for the province to promote sustained multi-year public investments in accelerator programs, which would give smaller companies access to leadership training, new markets, subject matter experts, and mentors and advisors.^[5]

Based on the Report Card results, Ms. Tipping further concluded that by providing more opportunities for companies to scale-up, B.C.'s technology sector will be more likely to create jobs, attract investment capital, invest in research and development, and create economic prosperity.^[6] The Report Card serves to highlight that, while B.C. has a strong technology sector, more emphasis, attention and focus is needed to help build smaller companies into sector leaders or else run the risk of simply maintaining the status quo.

B.C.'s Technology Environment

B.C.'s technology sector is still a "top five" sector in the province.^[7] In comparison to other sectors within the province, the B.C. technology sector contributes more to B.C.'s economy than most of the province's other traditional industries, such as forestry, mining and oil and gas. In addition, on a national basis, the technology sector is beginning to catch up to the other large provincial technology sectors in terms of GDP and revenue. In fact, when compared to other Canadian provinces, B.C.'s technology sector has the fastest growth rates in both GDP and revenue during the period between 2013 and 2018.^[8] Despite this positive fact however, because the B.C. technology sector is underperforming in terms of the number of mid to large-sized companies, it continues to lag behind the technology sectors in other provinces such as Ontario and Quebec.

Employment in B.C.'s technology sector grew by 70% since 2003, outpacing all other provinces, while more than doubling the Canadian average.^[9] Employment growth increased at a five-year compound annual growth rate of 4.8% from 2013 to 2018, largely because of the growing number of multinational firms and overall growth of local technology companies.^[10] B.C.'s growth during the past five years is double that of the growth in Ontario and Quebec. Encouragingly, average weekly wages in B.C.'s technology sector have grown

significantly faster than the national average since 2016. Having said that, since 2018 wages in B.C.'s technology sector have stagnated which is a worrisome development.^[11]

Finally, B.C. technology exports have risen at a five-year compound annual growth rate of nearly 11%. While that level of growth is positive, B.C. has the potential to significantly expand its service exports. The B.C. technology sector accounts for 6.4% of the province's total exports, and 12.1% of its total service exports. This percentage of exports, compared to other industries, continues to lag behind those of other provinces and falls below the national average for exports related to technology services.^[12] If B.C. can raise those exports to a level consistent with the averages of its provincial and national counterparts, there is the potential for significant growth in technology service exports from B.C.

B.C.'s technology sector is one of the strongest and fastest-growing industries in the province, as indicated in the Report Card, but there is work to be done for the sector to gain ground on other Canadian technology sectors.

Scale-up Potential

A clear finding in the Report Card is that B.C.'s technology sector, while performing reasonably well, has struggled to create an environment in which companies can scale-up to a size where they can provide long-term provincial economic strength and stability. Smaller companies are often nimble and early adaptors or creators of new ideas and technologies, but a lack of readily available, skilled and talented resources, research and development expenditure, access to patented technologies, and access to the necessary growth capital is impeding the development of a truly world leading technology sector.

However, a renewed focus on this issue by key provincial players is a positive sign. The Report Card showed that there is potential for a material improvement in the ability of B.C. technology sector businesses to scale-up, and the B.C. government, through Innovate BC, the crown agency that connects B.C. innovators with B.C. government funding, tools, resources and support, has already begun to focus on this issue by hosting 2020 B.C. Tech Summit specifically on "Scaling Up for Global Growth".^[13] In addition, the BC Tech Association introduced a new HyperScale program which is a customized mentor approach which provides seminars led by global experts to CEO's, company founders and executive teams to help high-growth tech enterprises scale-up to become the next generation of provincial anchor companies.^[14]

The BC Tech Association also introduced a series of 11 key policy recommendations to assist in the scale-up of B.C.'s technology sector including, among others, introducing a province-wide collaborative platform called "ScaleUp BC" and establishing a transformation fund for B.C. tech businesses.^[15]

The BC Tech Association states in this tech report that the scale-up of the technology sector in B.C. would bring

new opportunities for growth, profitability and efficiency, and economic stability to every sector. In addition, the BC Tech Association report concludes that scaling-up the B.C. technology sector will create well paying jobs and employment security.

What Does This Mean for Your Company?

As the B.C. government, the BC Tech Association and other entities with an interest in the growth and scaling-up of the B.C. tech sector turn their attention to how the province can help facilitate the development of a technology industry which is truly a Canadian and global leader, your business will have opportunities to establish itself as a key player in that industry. Technology businesses will have greater opportunities to attract investment capital, focus on research and development, and create employment opportunities. To take advantage of these new opportunities, B.C. tech businesses will need to ensure that they have first taken care of some important housecleaning matters.

To begin, they will want to make sure that they are properly set up and organized from a legal perspective to allow for investors to be brought on board. As investors look to inject cash into your business, you will want to ensure that your company is structured in such a way that it is appealing to new investors. If your business develops new technology, you will need to confirm that you have the proper protections and legal language in place with respect to the ownership of any content created by your employees or contractors to allow you to take advantage of any and all opportunities to commercialize that technology without any legal wrangling over the ownership of the works. Similarly, if you are creating any technology that is eligible to be protected under any form of registrable intellectual property rights (for example, trademarks, copyrights, or patents), you will need to take appropriate steps to secure your rights in such works at the appropriate time.^[16]

Finally, the legal issues a company faces as it grows from a small or emerging company into a medium or large business change as well. As your company scales-up, you may begin considering alternative means of financing your business, taking your business public, establishing credit facilities, or creating other funding models to grow the business. Offering your products or services internationally also brings with it specific challenges you will need to navigate carefully to ensure you stay onside with respect to all legal and regulatory requirements. In the modern tech world, cybersecurity, privacy and data protection issues are paramount due to the ease with which people can access and share sensitive information. Ensuring you have the proper policies for your business, both in Canada and beyond, to address these issues is a key factor to ensuring your business can grow quickly and without any significant legal obstacles.

Conclusion

The Report Card clearly shows that B.C.'s technology sector is strong and growing at a steady pace. However, the "B" grade as compared to other technology sectors reflects a clear opportunity for the sector to improve

and fulfill its potential to become the backbone industry in B.C. To achieve this potential, the provincial government along with the technology community need to support technology companies by creating an environment in which local tech businesses can thrive. Already a top five sector in B.C, with the necessary support and investment, the B.C technology sector can achieve grade “A” status, grow and contribute significantly to B.C.’s provincial economy as a whole.

by Robert Piasentin and Stephen Lewis, Articled Student

[1] KPMG, “*British Columbia Technology Report Card: Tackling the Scale-up challenge*” (November 2020), at pg. 3, [online](#) (pdf).

[2] Robert Piasentin and Josh Sved, “*Making B.C. an Emerging Economic Leader*” (June 2020), [online](#).

[3] BC Tech Association, “*BC Tech and KPMG unveil 2020 BC Tech Report Card*” (November 2020), [online](#) (pdf).

[4] *Ibid.*

[5] *Supra* note 1 at pg. 1.

[6] *Supra* note 3.

[7] *Supra* note 1 at pg.11.

[8] *Ibid.*

[9] *Ibid* at pg. 21.

[10] *Ibid* at pg. 21-22.

[11] *Ibid* at pg. 25.

[12] *Ibid* at pg. 26.

[13] Jill Tipping, “*2020 Predictions for BC’s Tech Community*” (6 January 2020) [online](#).

[14] *Ibid.*

[15] BC Tech Association, “*BC’s \$25 Billion Opportunity: A Transformation Agenda*” (March 2020), [online](#) (pdf) .

[16] See McMillan’s June 2020 bulletin [Making Innovation Work for British Columbia](#) on the British Columbia Innovation Commissioner’s report for further information on intellectual property issues in B.C.’s technology sector. B.C. scores poorly compared to most OECD countries with respect to the number of patent registrations, commercialization of IP, and medium-term growth of emerging companies due to issues with IP leakage, inadequate incentives, the prohibitive costs of securing patents, and low levels of business investment in R&D.

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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