

Focus

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Startup's Transition to a Fully-Fledged Enterprise

Special Report

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Illustrator: Jie Yin Lin

Designer: Ze Wei Pan

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Talents as an Asset in the Age of AI

P. C. Chang



► Pao Cheng Chang, President of the China Productivity Center

The coming of summer sees an army of new graduates entering the work force in addition to the seasoned cohorts who take the opportunity to embrace new prospects by jumping ship to other positions. To be fair, management consulting entails great challenges. Corporate customers often expect the consultant to come up with a quick fix to a problem that has bothered them for a long time and to propose a panacea that effectively improves the performance

of the operation within a short timeframe. The high expectations that come with the job also bring about greater challenges than those encountered at a regular job and, if successfully handled, an immeasurable sense of achievement. Therefore, management consulting has its unique allure to job seekers. Consider China Productivity Center as an example. At this time of year, we receive many illustrious resumes from talented people who express their interest in working for the Center. The applicants often have in mind an accelerated learning experience relating to comprehensive and critical thinking as well as important skills required of a high-level corporate officer. They expect that a job at the Center will empower them to grow exponentially in their expertise.

Excellence in one single skill falls short of interdisciplinary proficiency

Every participant in the work force expects to contribute and be recognized for his/her skills. However, the evolving labor market makes no room for complacency. Continuing development of professional expertise is the norm. We are in a time when the development of artificial intelligence (AI), the Internet of Things (IoT), smart robots and drones initiate an overhaul of the traditional industries and a general realignment of

supply and demand in the labor market.

In *Shifting Asia: How Artificial Intelligence Will Transform Asia* released by UBS, Sundeep Gantori, an analyst at the Swiss banking giant, claims that AI will create an economic value between USD 1.8 trillion and USD 3 trillion a year by 2030 in Asia but also put 30 to 50 million jobs in the region at risk in the medium to long term. According to UBS, financial services, manufacturing, retail and transportation sectors will be the most affected by AI in Asia. Furthermore, according to the International Labour Organization (ILO), the jobs most at risk of being made redundant are those that involve routine and predictable tasks, examples including financial advisor, office administrator, retail salespeople and drivers. These industries actively introduce robots to serve their customers primarily because, with the aid of artificial intelligence, data analysis and the Internet of Things, the robots are more adept in understanding customers' needs and predicting customer behavior, thereby responding promptly to customers' demands and guiding them to make timely decisions. The new technologies will give rise to major changes in the workplace. I've stated above that continuing development of professional expertise is the norm. This is exactly the reason why. If an employee fails to adapt to the AI technologies and expand his/her repertoire to build interdisciplinary proficiency, the individual is at risk of being hollowed out in the new work force.

Individual Productivity Crucial to the Productivity of an Organization

The arrival of the post-AI era overthrows

the existing business models. However, in my view, occupations that require a high level of personalization and creativity will remain irreplaceable. Management consulting belongs to this category. Consultants rely on individual professional expertise, experience and wisdom abstracted from years of collaborative work to help the customers succeed. In the face of artificial intelligence as an ultimate inevitability, we need to fully utilize the resources of one's own and the organization to identify our place in the future. The answer rests in "productivity". I often say that productivity as a measure of the relationship between input and output has remained constant for centuries, but new definitions and interpretations continue to be assigned in the context of varying times, fields and industries. An enterprise that aspires to stay competitive should see productivity revival as a norm in the sustainable operation of a business as well as an important key to success. Increasing productivity of the human capital is of paramount importance to a business. Businesses are reminded that now is the time to step up the effort to develop the human capital and increase productivity.

Here is the issue. The training needs for highly-demanded workers with interdisciplinary proficiency, whom businesses are yearning to recruit, are only partially fulfilled by our education system. How does a business or organization realize the potential of its human capital through the training mechanism? I think human capital development is like a relay race in which team members take turns completing different legs of the race. Proper management ensures the baton is passed down to a team member that has the ability to connect the human resource development with the needs of a business or organization.

Talents as an Asset

Every individual determines his/her own career path according to the education and training he/she receives as well as the personal interest and aptitude. The individual then applies for a position at an enterprise of her choice and becomes an employee. At this stage, the employee works out of her instinct and treats the occupation as a job. The organization should create a workplace that empowers the employees to put their skills to use and realize their potential in the early stage of their career. Opportunities for advancement need to be presented to the employees who will seek to grow with the organization. This way, the employees will develop professional expertise and identify with the core values of the organization. They will see that their positions at the organization are not merely a job, but a career. The business may further provide common commitments, performance goals and common responsibilities paired with corresponding professional skillsets in order to satisfy the employees' needs for a sense of achievement, passion for learning, aspiration for contribution as well as actualization of their potential. Once an employee acquires the mentality that sees his/her job as the pathway to building a career, he/she will become the key drive behind the innovation and evolution of the organization in the meantime the asset that pulls in lucrative profits for the organization. An AI robot can hardly emulate the experience that gives rise to the wisdom acquired through the navigation in the corporate culture. The organization can continue to grow and flourish around the people-centered values that are integral to the sustainable development of an outstanding business.

Business leaders must stay firm on their commitment to realize human capital even against the hue and cry trailing the ever-evolving technologies. Talent cultivation determines the productivity of a business. The commitment to the goal not only supplies the business with a big pool of talents but also shapes the future of the industry and the country.

(The author is the President of China Productivity Centre and the Senior Industry Advisor of Asia Pacific Industrial Analysis Association.) **CPC**



Part 1

Go in with the Good Cards and Survive the Death Valley Curve Startup's Transition to a Fully-Fledged Enterprise

►The world is on a scramble for startup talents. Which countries have the incubators of startup unicorns?

In a space with the signature look of some avant-garde art or the industrial style interior design, conversations carried out in Mandarin, English and other languages about a wide array of industries flow in the air. Young people who nibble on the seemingly endless supply of snacks engage in creative brainstorming spree with experts from different disciplines. The above are the scene most people typically associate with startups. However, startups evolve over time. Talents come and go. Funds run out. Not a single startup is immune to these challenges. The hurdles in the transition to growth must be overcome before a startup wins the title of a fully-fledged “unicorn”.

Most people automatically associate startup entrepreneurship with the Silicon Valley. Some may question whether the creative energy that characterizes Silicon Valley has run out of steam after decades of growth. According to the Global Startup Ecosystem Report 2017 released by Startup Genome, the answer is affirmative. Silicon Valley in the U.S. consistently leads in the ranking of cities with the best startup ecosystem, followed by New York and London. Beijing makes a strong debut in the report, coming in the fourth place while Shanghai comes in eighth. Four Asian cities make the list this year. It is worth mentioning that Singapore, with the full support of the government's innovative policies, overtakes Silicon Valley as the world's leading startup ecosystem for its access to quality talents and cost management. The findings in the latest report show that Asian cities are on the rise although Silicon Valley remains the tech mecca for startups. Furthermore, government policies create the necessary momentum driving the startups and new industries.

Facebook Playing a Role in the Asian Silicon Valley Development Plan

France is pushing forward with plans to support startup entrepreneurship. In addition to spending 200 million euros building the world's largest startup incubator in Paris, Emmanuel Macron, the President of France, has launched the French Tech Visa program in an effort to attract foreign talents to France. The visa is valid for four years and available to international entrepreneurs and venture capitalists planning to grow their venture in France.

How does Taiwan fare in the newest wrinkle of the global drive for growth? The government has been on a quest to revive corporate energy for enterprises. The Asian Silicon Valley Development Plan is introduced to address the need. In creating a vibrant startup and entrepreneurship ecosystem, resources will be devoted to address the various needs in four dimensions: human capital, regulatory framework, funding and finance, and support mechanisms that form a cluster around the startups. On human capital, cultivation of domestic talents well-versed in the interdisciplinary software knowledge is vital. In the meantime, an environment equipped with physical and soft infrastructure, including taxation benefits and modern conveniences, must be created and maintained to attract international talents to grow their venture in Taiwan. It has also been announced that Taiwan will be home to one of the operation centres from which Facebook runs its newly established FbStart program. The Collaboration between the two programs, the Asian Silicon Valley Development Plan and FbStart, will enable the formation of an innovation R&D and startup supply chain ecosystem.

Taiwan-style Innovation Made Possible with Diverse Management Approaches

Let's turn our attention back to Taiwan. The entrepreneurship-friendly measures are boosting the startup scene in Taiwan, but the arena for its growth and development should not be limited within the country. As early as three years ago, the National Development Council worked closely with Taiwan Startup Stadium (TSS) to consolidate the resources from the public and private sectors

in order to help the Taiwanese startups succeed in applying for international startup accelerators.

This comes back to the elephant in the room: why do Taiwanese startups often fail to attract international investment? Why does international venture capital often overlook Taiwanese ventures? Holly Harrington, the general manager of the Taiwan Startup Stadium, alludes to the absence of means to approach and communicate with international investors as the most common issue that prevents Taiwanese startups from accessing international capital. She also identifies communication issues, inability to reflect on the reasons leading to failure, fear for the tall poppy syndrome, as well as inability to break

the hierarchy as the problems that often hold Taiwanese entrepreneurs back from succeeding. According to Harrington, Taiwanese teams often dwell in the belief that a good product speaks for itself with little marketing. The fear of becoming a tall poppy and of making a statement for the products and services are fatal mistakes that may cost a startup's dream of accessing international resources.

On the other hand, each of the Taiwanese startups adheres to a distinct philosophy that characterizes the organization.

“None of the founding staff members had any background in tourism. So, we decided to trim



down the middle management to ensure the work was carried out with efficiency,” said Chen Yen-Fu, the founder of iCarry. “iCarry has dealt with the international markets since the nascent stage of the company. So, we need an operating model that provides flexibility and mobility needed for a startup. We adopt the ‘golden triangle management’.” A team of three staff members, consisted of a product development manager paired with a technical staff and a support staff, is central to the management scheme. Each member of the team must fully understand the duties and responsibilities or other functions on the team, thereby ensuring efficiency. But Chen also states, “The types of work that need to be done increases as iCarry expands. That means the way the golden triangle operates needs to be modified to meet the new demands. The internal management model must be updated, too.”

Let’s direct the attention to the pragmatic question, the source of funding. Is a successful fundraising campaign or an angel investor prerequisite to successful entrepreneurship? Wang Po-Yu, the founder of IF Plus Technology Art, has a distinct approach to the matter. IF Plus Technology Art seeks to create a fair, stable yet competitive work environment. The company retains at least one-year worth of working capital through sales and marketing to free the organization from financial distress as it pushes forward its plans. Wang further emphasizes that a startup needs to identify edges in order to wean off its dependence on external money. For him, retention of key technologies is more important than everything else, protecting the company from descending into crisis when there is turnover of key talents. One must play his cards close to

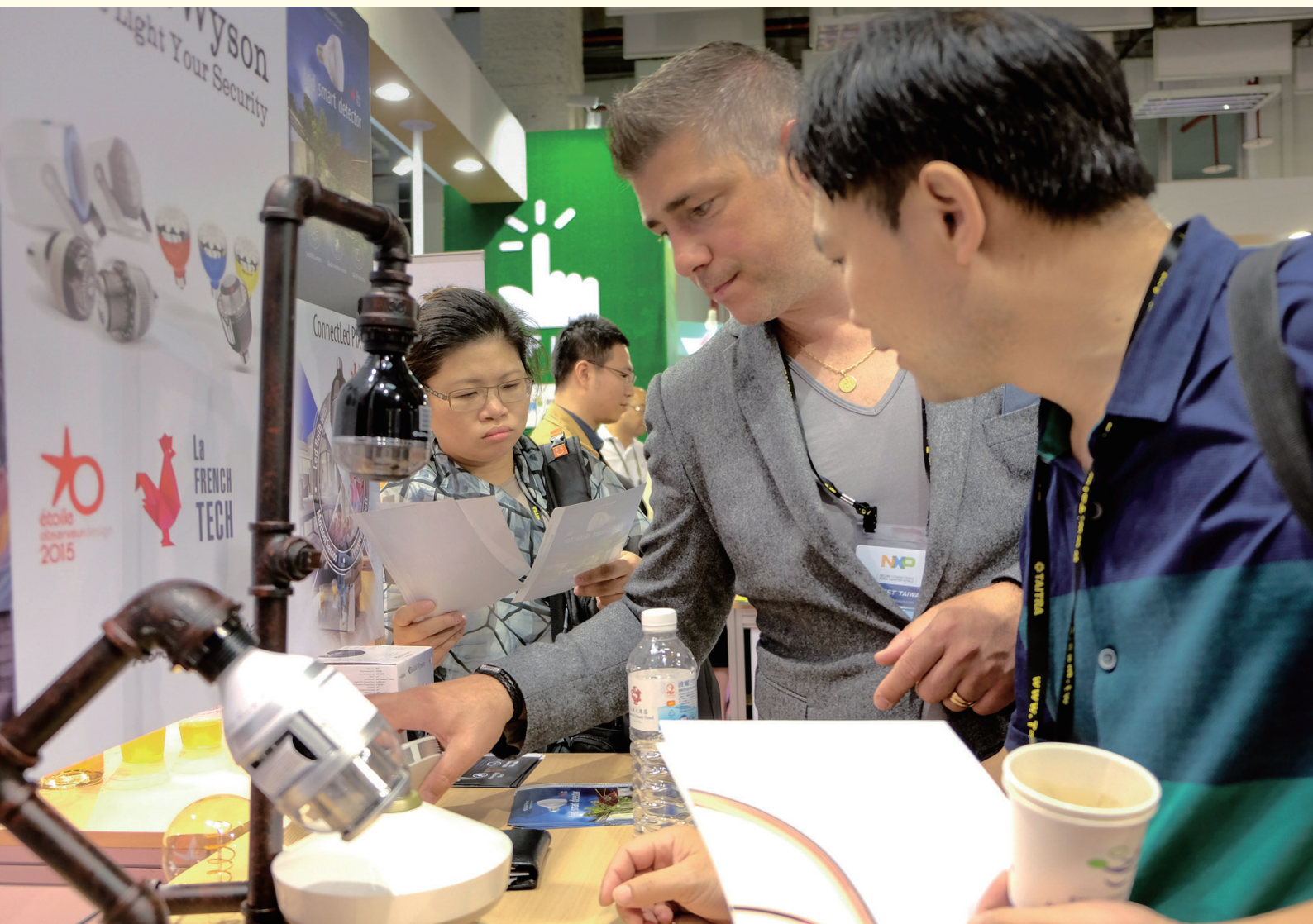
the chest so he doesn’t lose the trump cards at the end of the round.

Will the startup scene in Taiwan continue to grow and spur another wave of “Taiwan Miracle”? Successful entrepreneurship does not rely solely on the hard work of the startups. The innovation industries will thrive on the collaborative effort of the industries, the government and the academia, demonstrating the endless possibilities when $1+1+1=\infty$. A creative idea is nothing more than the beginning of a journey. Taiwanese startups must adopt appropriate management methods as they trudge through the Valley of Death to reach the ultimate survival. We will work together to make Taiwan home to startup unicorns. Read on for more stories in this issue. **CPC**

Bell & Wyson

Aesthetics and Smart Manufacturing: French-Style Innovation Leads the Trend

What comes in your mind when you see the tricolour flag? The left bank in Paris, the magnificent Louvre Museum, or the famous French romanticism? But a new wave of innovation originated from France has swept across the start-up scene around the globe. The smart light bulbs developed by Bell & Wyson represent the latest French-style innovation.



► Bell & Wyson believes a consumer-oriented approach is the key. A product that has no practical application is merely a demo of the company's technical competence.

A lazy summer breeze sweeps over the lawn. A group of youngsters are having a garden party by the pool side. Outdoor lights bounce off the water, covering the pool with dancing reflection of colours. The owner of the house picks up her phone and swipes her fingers across the screen. The lights turn red and green as she does that. The owner pulls the phone close and speaks, "Hello!". Her voice reverberates across the property, loud and clear, as if an invisible speaker sends the sound wave to the ears of each guest.

A house in the far end corner has an outdoor light next to its door. Mosquitoes flying by are drawn to the light and trapped in the bulb. The

indoor lights are also on, but the house remains silent. A thief breaks in and confirms there is no one home. Noticing the absence of any surveillance camera, the thief breathes a sigh of relief and begins to rummage the house. But the alarm suddenly goes off with the police arriving at the scene soon after. The thief has no choice but to surrender to the law.

Light Up the Blue Ocean with the Multifunctional Smart Light Bulb

We may assume that microphones, insect zappers, surveillance camera and alarm system completely hidden from view are something we only get to see in Sci-Fi movies. But these



inventions are already a reality. What makes the invisibility of these products possible is that the functions are embedded in the ordinary household light bulbs. Bell & Wyson, a French start-up, introduces a series of smart light bulbs, joining in the race with the light manufacturers such as Philips and Osram that are vying to release new generation light bulbs. The new LED lights are Internet enabled through Wi-Fi. The users can use a cellphone APP to remotely turn on and off the lights, set the timer, and switch colours of the light.

But what distinguishes Bell & Wyson's smart light bulb from those released by Philips and other major lighting manufacturers is its multifunctionality. Components that enable different functions are installed inside Bell & Wyson's light bulb to make it deliver more functions than an ordinary light bulb does. The company's debut product also functions as a smoke detector that senses smoke in the room and sets off the fire alarm, delivering the combined benefits of a light bulb and a smoke detector. Another product has an embedded microphone and camera that monitors any suspicious activity within the surveillance range and sends out a warning accordingly, working both as a light bulb and a surveillance camera. A new product that will be released later this year emits ultraviolet light and carbon dioxide that attract insects and traps them in the integrated bug zapper. The light bulb insect zapper is one of the very few of its kind.

These seemingly fanciful functions turn the Bell & Wyson products into a multi-use gadget rarely available on the market. The versatile light bulbs successfully generate a lot of interest. In



► Vossier emphasizes that his secret to managing the technical personnel is “communicate, communicate and communicate”.

2015, Bell & Wyson participated in Concours Lepine; the Paris invention fair awarded a prize to the company for its product. In 2016, the company was selected to represent France to participate in the Consumer Electronics Show (CES) that took place in Las Vegas, an opportunity the Company took advantage of to garner international attention. Fabrice Vossier, a co-founder of Bell & Wyson, revealed that the company has an annual sale of more than 100,000 light bulbs, proving that it has secured product visibility in the smart light bulb market.

Typical Failing of a Start-up: Technology-oriented Obsession

When asked how Bell & Wyson came up with the innovative products, Vossier, who flew to Taiwan for Computex Taipei in June this year, gave a simple but irrefutable answer, “We begin by asking what the consumers need. We believe in coming up with good ideas and finding the best team to work on them.”

According to Vossier, Bell & Wyson’s smart light bulb is an IoT (Internet of Things) application put together with the company’s excellent technical competence, but he doesn’t think the success of a start-up does not rely solely on its technical competence. Vossier, as a frequent participant in trade shows around the globe, has seen nearly every IoT product in all corners of the world. Many products have a fancy look, but the absence of any practical use renders them nothing more than a demo product showing off the start-up team’s technical ability. “Startup companies should provide services from the perspective of the consumers, getting to know what they need and what they want, and develop the products based on the understanding,” says Vossier. “How to apply the technology shouldn’t be the only thing that fills their mind.” The key is to get into a consumer-oriented mindset, develop new ideas and turn them into something desired by the consumers. Central to the success of a start-up is the ability to integrate and fully utilize the knowledge and tools offered by personnel with expertise in technology, design and manufacturing. The founder must tear down the barriers between different disciplines and facilitate the cross-discipline collaboration in the company. In this regard, interdisciplinary

coordination is more important as a skill than the technological know-how.

French-Asian Fusion: Aesthetics + Manufacturing

Fabrice Vossier, not yet 40, has more than a decade of work experience across Europe and Asia under his belt. The career as an expatriate helped him build up an ability to integrate interdisciplinary activities. Graduated from a French business school in 2002, Vossier worked for a company that sent him to China. His work



primarily revolved around IT products and high-tech companies, areas that forced him to become familiar with Shenzhen, Hong Kong and Taiwan. He later married an Asian wife and acquired a new identity as a half-Asian. That is why Bell & Wyson has deep roots in Asia. The partners that worked on the initial technical conceptualization of the company's products are from Shenzhen. A Taiwanese tech company is amongst the stock holders. The products have been manufactured in locations on both sides of the Taiwan Strait. On the other hand, as a French native who grew up and received education in France, Vossier has excellent aesthetic judgment that allows him to work with outstanding French designers to create stylish products. "Our products draw on the strength of the French design and Asian manufacturing. The integration is superb."

How did the founders come up with the idea of a smart bulb? According to Vossier, after the IoT became a popular concept, he often talked to his technology-savvy friends in China about interesting applications. Then lighting came to mind. Vossier explains that the lighting market has been undergoing a major shift, opening up to new technologies. The conventional light bulbs used in households are being replaced with more energy efficient LED alternatives. If an entrepreneur can ride on the trend and convince the consumers to "switch to smart light bulbs that offer greater convenience and easier control if they are going to replace the bulbs anyway", the market demand for the product will effectively increase. Furthermore, light bulbs are a fixture and a consumable item in every household, meaning that the demand for the product is inelastic.

Vossier also noticed that smoke detectors were installed on the ceiling of many houses across Europe as part of the fire regulations. The device, standing out from the rest of the ceiling installation, was a sore to the eyes. Vossier's natural affinity for beauty appealed to the Frenchman, asking whether there was any way to remove the eyesore. Then an idea flashed across his mind: hide the smoke detector in a light bulb. An embedded smoke detector in a light bulb necessarily gave rise to many technical challenges. Heat comes with light. But a smoke detector is sensitive to heat. The start-up team that overcame the technical challenges has successfully applied for a patent to protect the technology. The other applications that include an embedded camera, microphone and insect zapper came afterwards along the same train of thought.

Three Management Strategies: Communicate, Communicate and Communicate

According to Vossier, the greatest setback in the course of this entrepreneurship rest with management and communication, especially when the interlocutors are technical professionals. He was a marketing expert with a rudimentary knowledge of design, but had little background in technology. As the product development team push the discussion forward to technical aspects such as programming code and circuit design, he could only sit there in aghast ignorance. But as a decisionmaker who needed to determine feasibility of new ideas and concepts, ranging from an embedded smoke detector to an insect zapper, an understanding of the technologies involved was imperative and inevitable.

Vossier responded to the challenge with hard work. He constantly read up on the related knowledge and repeatedly engaged in conversations with the engineers to identify the key information he needed to determine technological feasibility of a product. “Communicate, communicate and communicate” was the only way to go. According to Vossier, communication is the priority when he interacts with the engineers in the company, external designers as contractors, as well as other managers. Since he takes frequent business trips abroad, fellow members of the start-up team often find him somewhere afar in a different time zone. Under such circumstance, he makes good use of messaging tools such as Skype and WeChat to ensure timely communication with other team members, so that the team members can get through the learning curve about each other without much glitch.

“The founder of a start-up team needs to be a fighter!” says Vossier. In contrast to a well-developed organization, the founders of a start-up company often need to cover many duties and functions. Furthermore, as the products stem from new technical applications, the founders’ ability to integrate interdisciplinary activities plays a more crucial role in a start-up than in a well-developed organization. The success of the venture depends partly on the founders’ mindset. Additionally, the founders’ skills need to complement one another. The core value that can never be overlooked is the commitment to hard work and strive to achieve the dream.

Diligence often comes at the cost of rest and recovery. “I rarely take holidays throughout my years of work. But I’m used to it,” says Vossier.

To him, finding the right people to form the right team is “very important but very difficult”. It is a time-consuming process. But the reality is that, even with the devotion of time and effort, he just can’t find the right person. When that happens, he re-considers his priorities and makes appropriate adjustment.

Bell & Wyson, according to Vossier, has successfully secured decent market shares in Britain, France, Germany, Spain and Portugal. The company expects to launch the products in North America, India, Southeast Asia and Eastern Europe in the near future. So far, Bell & Wyson has been relying on distributors to sell the products to the consumer end. But the company has been pushing forward plans to expand into the business-to-business (B2B) market, allowing it to sell the smart lighting products directly to hotels and developers. The new market will set off another spree of creative and diverse applications.

The glistening and fun light bulbs open the door to the realm of boundless imagination in the world of the Internet of Things. But the IoT is still at its nascent stage of development. Vossier believes that distribution, consumer perception and pricing will determine the popularity of the IoT products. The market will see a general price reduction for these applications provided that the distributors and major brands actively promote the products and educate the consumers. Perhaps, in three more years, the dream that each household has these magical products will become a reality. **CPC**

A Trial against the Unauthorized Innovation
**Manage Rather Than Imposing an Outright
Ban: Transitional Reform Measures are
Recommended**



Many luxury farmhouses and gigantic factories scatter around the farmland in Taiwan. These structures violate the zoning regulations and therefore constitute unauthorized building works. Luxury farmhouse removal is generally well-regarded as a move to exercise the authority of the government and to penalize the wealthy wrongdoers. However, the removal of giant factories involves issues fraught with nuance and complexity. The balance between economic development and environmental protection is a delicate issue. To address the dilemma, the Factory Management Act stipulates a support mechanism that provides the means to businesses to transform an unauthorized factory into a legal operation. Unregistered factories located in a specified area are not subject to prosecution and applicable penalties before the expiration of the guidance period. Furthermore, low polluting factories that meet certain criteria are allowed to apply for temporary registration. It seems that unauthorized factories can be conditionally exonerated and given a period of grace in the form of a temporary exemption from the requirement to hold a permit provided that the benefits of legalization outweigh the pertinent risks.

Legalization or Prosecution? Yuan Soap: Selective Enforcement

In practice, the authority has chosen to enforce the law against many cases of unauthorized factory. For example, Yuan Soap, the Taiwanese soap maker personally lauded by the President, markets its products as handmade from natural herbal ingredients. The products are well-received and widely popular. However, the authority was tipped off that the soap maker's factory in Jinshan was neither duly registered nor holding a proper permit. Shilin District Prosecutors Office carried out an extensive investigation on the matter and concluded in May this year (2017) that the named unauthorized factory constitutes a violation of Article 15 of the Statute for Control of Cosmetic Hygiene. However, considering that the defendant had no previous conviction and demonstrated excellent behavior during the investigation, the prosecutor agreed to grant amnesty in the form of a deferred prosecution agreement and

in exchange for the soap maker agreeing to pay NTD10,000,000 to the public treasury. In response, Yuan Soap released a statement on its Facebook page that,

“Now that the law has concluded that Yuan committed wrongdoings, the thousands of industry owners who toil and exert their strength in farm sheds and corrugated metal structure may have been committing wrongdoings. Now that Yuan is found breaking the law, then men and women who return to the countryside to make and produce are at risk of being penalized for what they do.”

Yuan Soap claims that the company had believed in the government when the latter promised legalization of employment and industrial operations on farmland. But when confronted by the law, the soap maker ended up being labelled as a lawbreaker. The discontent expressed by Yuan Soap originates from the perplexity inherent in the domestic industrial

development: many factories are actually unauthorized building works. As these factory operations contribute immeasurably to the Taiwan Economic Miracle, the concerns over the destruction of the ecosystem or other issues of public interest loom large. But the government seems to follow a pattern of selective enforcement in relation to such violations. The gap between the law in action and the law on the books is evident.

According to Article 33 of the Factory Management Act, the competent central authority, in seeking to provide the means to businesses

to transform unauthorized factories into a law-abiding operation, shall consult with the relevant agencies and implement measures to address the problem. The guidance period shall commence on June 2, 2010 and end on June 2, 2020. Unregistered factories located in a specified area are not subject to prosecution and applicable penalties before the expiration of the guidance period. Furthermore, according to Article 34 of the same act, a low polluting factory established before March 14, 2008, is allowed to apply for registration at a local competent authority and payment of the required contribution fund prior to June 2, 2015, in order to be exonerated as well as



► Many factories in Taiwan are not duly registered permit holders as they operate in the grey area of the law.

given a temporary permit and a period of grace in the form of a temporary exemption from related legal restrictions and penalties, provided that the said factory demonstrates its compliance to applicable regulations concerning environmental protection, fire, water management, as well as water and soil conservation. A factory that receives a temporary permit shall ensure to obtain legal documents permitting its use of the land and the building before June 2, 2020. Yuan Soap may not meet the criteria for an exoneration provided in the Factory Management Act. But it is a lot easier to justify exoneration of a specialty business that produces and markets locally made specialty goods as such, as opposed to other highly polluting factories. The authority is probably making an example of Yuan Soap. But a wise person knows that the case does little to effectively deter the proliferation of unauthorized factories but rather intensify the discontent associated with selective enforcement.

Third-party Marketplace Platform Sued

Radical Disconnect between the Law in Action and the Law on the Books

The disconnect between the law and the reality is nothing new. The law enforcement has several approaches that entail distinct advantages and disadvantages:

1. Strict adherence to the law on the books: The regulations are clearly specified and duly implemented as the law enforcement upholds the integrity of the law. On the other hand, a bad law is law, the enforcement of which often involves exorbitant cost.
2. Discretionary response to the violation based on the current situation but with complete disregard of the law: The approach allows the law enforcement to evolve in parallel with the social transformation and free from the bounds of the bad law. On the other side of the coin, the society thus has no predictable set of rules by which the members respect and adhere, throwing everyone back to the days of the rule of the jungle.
3. Biased use of the enforcement discretion and of vexatious litigation: The law serves the will of the ruler. The regulators can even initiate a vexatious litigation by prosecuting a case before identifying a meritorious cause of action. A society in which such approach prevails witnesses rampant abuse of human rights and distrust of the law by the ordinary citizens.
4. Discretionary enforcement: The enforcement approach has the advantage of informing the citizens that the law is still effective and citizens should not get too comfortable with violations under the regulators' nose. On the other hand, discretionary enforcement means that not everyone is equal before the law. People cast doubt on selective enforcement and the fairness of the law enforcement.

Those of us with a politically correct view of the world admire a civil society governed by the rule of law with the due process and a fair judicial system, and detest the days when the rule of the jungle prevailed. We find intentional misinterpretation of the law and vexatious litigation with a meritless cause of

action abhorrent. However, in reality, the law enforcement often chooses to prosecute some violations according to the statutes on the book and turn a blind eye to some other. Selective enforcement is an irrefutable reality. That is why Yuan Soap reacted strongly to the punishment for its violation. The regulators should uphold the integrity of the law as the new changes in the society continue to unfold. Changing existing laws or making new laws to meet the evolving needs of the society is a way out of the quandary. However, the lawmaking process often becomes entangled with the turf war waged by the respective interested parties and the rivalry amongst the political parties. The politicians and television personalities before the camera are tuned in to the squabble while the audience gets the full view of the events. As much as we expect to live in an orderly society governed by the rule of the law, it is vital to admit that the world is not perfect.

Businesses will continue to introduce and promote new business models. The regulators may consider approaching the emerging models differently by trying to manage, rather than restricting, the practice. The reform program may be implemented locally and in stages as a pilot project before the government pushes forward the plan on a national level. To regulate the services and platforms that fall under the umbrella of the sharing economy, the government may implement an indirect control policy by regulating the platforms, which are in turn required to oversee the conduct of the users. Lifting the regulatory ban on the emerging services and platforms should be contingent upon implementation of a preliminary supervision process. An experiment of the law may be conducted in a specific area

over a limited period of time, during which the qualified businesses are granted amnesty for activities that promote business innovation. If the experiment proves successful, the same set of regulations may be applied on a national level in a gradual and orderly fashion. As for the unauthorized building works that contributed to the takeoff of the industrial economy in Taiwan, the government may consider granting a grace period and establishing a sunset provision. The modern industries, faced with fierce market competition, are trudging through a rugged terrain for survival. The choice between prosecution or legalization inevitably sets off a chain reaction involving the rivalry of multiple interested parties and the process of transformative justice. The society needs to allow flexible time and space for implementation of transitional reform measures. It is hoped that the regulators will update the rules of the game to bridge the gap between the traditional and innovative industries. I look forward to a better future in Taiwan. **CPC**

(The author is a practicing lawyer.)



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