

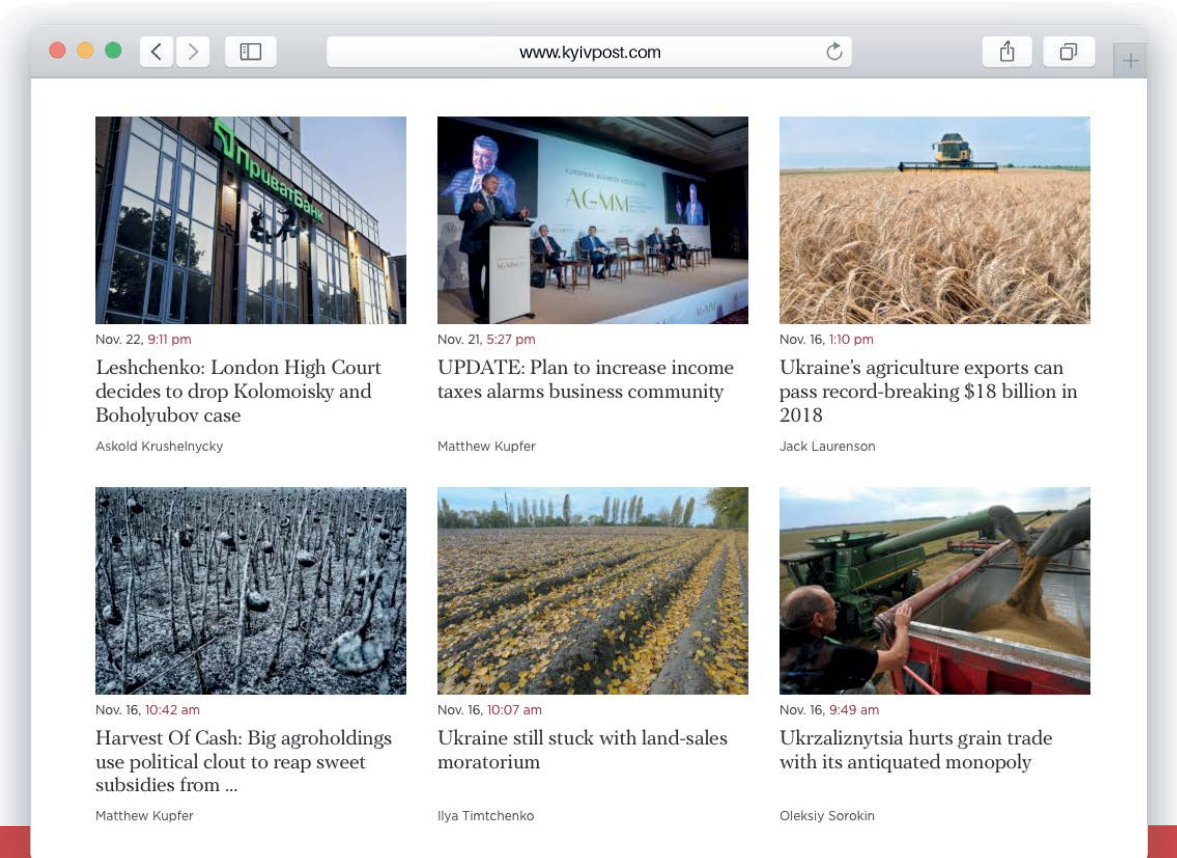
Kyiv Post

LEGAL
QUARTERLY

December 20, 2019

Vol. 6, Issue 4

Ukraine's IT challenge



Helping you make sense of an unpredictable world.

Support independent journalism.

Subscribe!

~~\$60~~ **\$45**
per year

Online benefits include:

- **Unlimited access** to all exclusive Kyiv Post stories online
- **Hourly updated** feed of news stories, analysis, multimedia, opinions and more
- **Archives** dating back to 1997

Kyiv Post
UKRAINE'S GLOBAL VOICE
www.kyivpost.com

Editor's Note

We are living in a digital world, so what role will Ukraine play?

Ukraine's information technology industry has boasted of its brilliance and importance to the country for much of the past five years. It has also been widely praised from many quarters, with experts predicting that the rise of the Ukrainian IT is inevitable and unstoppable.

Yet Ukraine still cannot fully utilize its huge reserve of over 200,000 tech specialists. Agriculture remains the largest source of the country's gross domestic product, 12%, while the tech sector contributes only 4%.

Yes, Ukraine has become the birthplace of at least two so-called unicorn companies, including Grammarly and GitLab, startups that are now worth more than \$1 billion. But even these firms aren't chiefly Ukrainian, as their main offices are incorporated far from their motherland — in the United States.

This proves that, as soon as they find recognition, most local skilled tech specialists move abroad. Why? They say it's because of poorly-written laws for the protection of intellectual property rights and few investment opportunities.

So maybe Ukraine is simply not ready to turn into a tech nation right now? Maybe it needs time to catch up with world leaders? Shall we just sit and wait?

The local tech community is against that idea. Ukrainian IT specialists insist Ukraine needs to act now by acknowledging that the tech industry is the country's top priority and that it needs proper, up-to-date legislation here and now.

In this Legal Quarterly, we look at the opportunities for Ukraine's IT sector and the legal challenges it faces.

All of our contacts are available online at <http://www.kyivpost.com/contacts/>

KyivPost | LEGAL QUARTERLY

December 20, 2019, Vol. 6, Issue 4

© Kyiv Post, 2019

The material published in the Kyiv Post Legal Quarterly may not be reproduced without the written consent of the publisher. All material in the Kyiv Post Legal Quarterly is protected by Ukrainian and international laws.

The views expressed in the Kyiv Post Legal Quarterly are not necessarily the views of the publisher nor does the publisher carry any responsibility for those views.

Publisher: Adnan Kivan

Chief Editor: Brian Bonner

Commercial Director: Alyona Nevmerzhytska

Editors: Olga Rudenko, Matthew Kupfer, Denys Krasnikov, Jack Laurenson

Sales Managers: Yulia Kovalenko, Yulia Krus, Vita Shvets, Elena Symonenko

Designers: Vladyslav Zakharenko, Yura Borovik

Project Team: Natalia Datskevych, Oleksiy Sorokin, Vyacheslav Hnatyuk, Igor Kossov

Photo Editor: Pavlo Podufalov

Photographers: Kostyantyn Chernichkin, Volodymyr Petrov, Oleg Petrasjuk

Спеціалізоване видання «Kyiv Post Legal Quarterly» видається ТОВ «БІЗНЕСГРУПП». Наклад — 4,000 прим. Розповсюджується безкоштовно.

Матеріали, надруковані у виданні «Kyiv Post Legal Quarterly» є власністю видавництва, захищені міжнародним та українським законодавством і не можуть бути відтворені у будь-якій формі без письмового дозволу Видавця. Думки, висловлені у дописах можуть не завжди співпадати з поглядами видавця, який не бере на себе відповідальність за наслідки публікацій.

Засновник — ТОВ «БІЗНЕСГРУПП»
Головний редактор — Брайан Боннер
Відповідальний за випуск — Брайан Боннер

Адреса видавця та засновника співпадають:
Україна, м. Київ, 01004, вул. Пушкінська, 31^а, 6^й пов.

Реєстраційне свідоцтво —
Кв № 23392-13232ПР від 24.05.2018

Надруковано — ТОВ «Новий друк»,
02660, Київ, вулиця Магнітогорська, 1,
тел.: +38 044 537 24 00

Замовлення № 19-2026

З приводу розміщення реклами звертайтеся:
+380 44 591-77-88
Відповідальність за зміст реклами
несе рекламодавець.

Contents

- 4 Interview with Mykhailo Fedorov, Ukraine's first minister of digital transformation
- 6 Overview of Ukraine's IT sector
- 10 Tax changes could rock IT industry
- 14 **Legal Directory**
- 17 Interview with Deputy Minister Alexander Boryakov on the tech-driven economy
- 18 Ukraine's esports industry is untamed and growing
- 22 The future of artificial intelligence in Ukraine
- 25 Weak intellectual property protections harm video game industry



Air travel and the internet have made the planet's 7.8 billion inhabitants more connected than ever.



Mykhailo Fedorov, the minister of digital transformation, speaks about his major goals on the electronic government in Ukraine at the Kyiv Post Tiger Conference on Dec. 10, 2019. Starting with electronic driver's licenses and car registration documents, the minister aims to move all public services online in the next three to five years. (Oleg Petراسиuk)

Mykhailo Fedorov: Ukraine has real political will to digitalize state

By **Natalia Datskevych**,
datskevych@kyivpost.com

Over the past three months, Mykhailo Fedorov has been in the spotlight of the media and the public. The youngest minister of the Ukrainian government, Fedorov leads the newly-created Ministry of Digital Transformation.

At the age of 28, Fedorov is responsible for implementing an idea known as The State in a Smartphone, a big election promise of

President Volodymyr Zelensky.

The major goal is to transfer 100% of state services online in the next three to five years, which Fedorov and the newly hired 133 employees of the ministry are working on.

"If a service isn't available online, it doesn't exist at all," Fedorov said about his ministry's end goal.

So far, not everything has been working

out as Fedorov expected. In August, when he was still a lawmaker from Zelensky's party, Servant of the People, Fedorov and his team prepared 35 draft laws for Ukraine's e-government and tech industry. The plan was to adopt them by the end of the year.

But when he became the minister on Aug. 29, his vision shifted. Now Fedorov relies more on technology rather than on legal changes, which take too long to make.

"If we will start changing laws, trying to pass them through every reading, then our country will see The State in a Smartphone in 20 years," he said.

As a result, one of the decisions was to try to bring in digital services using the gaps in existing legislation.

Enter Diia

The ministry is launching Diia (Ukrainian for "action"), a mobile application for state services. At the start, it will provide two services: electronic driver's licenses and car registration documents.

On Dec. 16, some 20,000 drivers who registered for beta testing will start testing the application in real life. If the testing is successful, in February 2020 the app will be available for everybody.

"We will look at how many people are using it, and what is their culture of using online public services, so we can plan our actions for the next year," said Fedorov. "We will understand if we are doing it the right way or not."

The target is for Diia to have at least one million active users by the end of 2020, but ideally three million, according to Fedorov. This explains the choice of the first services.

"This will help us to have a big audience. What driver wouldn't want to always have their driving license and car registration documents in their smartphone?" said Fedorov.

Other government electronic services will be gradually added to Diia.

Results and plans

In parallel to launching Diia, the ministry filed 20 draft laws on digitalizing the country to the parliament. Some proposed amendments to existing laws were already adopted.

For example, an important law on electronic registers was adopted in the first reading, which will accelerate public services and make it easier for Ukrainians to communicate with state bodies. It will allow them to solve any question in one, maximum two visits to a state administrative center, instead of running from one office to another multiple times.

However, even if the law is adopted in its second reading, it will come into force no earlier than Jan. 1, 2022.

In addition, some changes that are crucial for the economy were already made to existing laws. One of them creates an "electronic office" for construction companies, which will minimize corruption risks.

"It will save billions of hryvnias," Fedorov said.

The next laws that Fedorov needs the parliament to adopt are the Law on Electronic Registers in a second reading, the Law on Using Personal Data, or the so-called General Data Protection Regulation (GDPR), and the Law on E-residency, which will allow foreign citizens to use government services, register companies and do business in Ukraine.

Plus, starting in 2020, public servants will find it easier to file their online declarations of assets and income, because the declarations system will be interconnected with property registers.

President's support

As much as Fedorov wants to accelerate the process of the country's digitalization, there is still a room for growth, especially in mid-level management.

"If a service isn't available online, it doesn't exist at all."

— Mykhailo Fedorov,
Ukraine's digital transformation minister

"There isn't enough expertise in general, but the core people that we work with are really great experts," he said.

For him, the ministry is like a startup, where people who used to work in IT businesses are trying to change the poor reality in which Ukrainians were forced to live for many years.

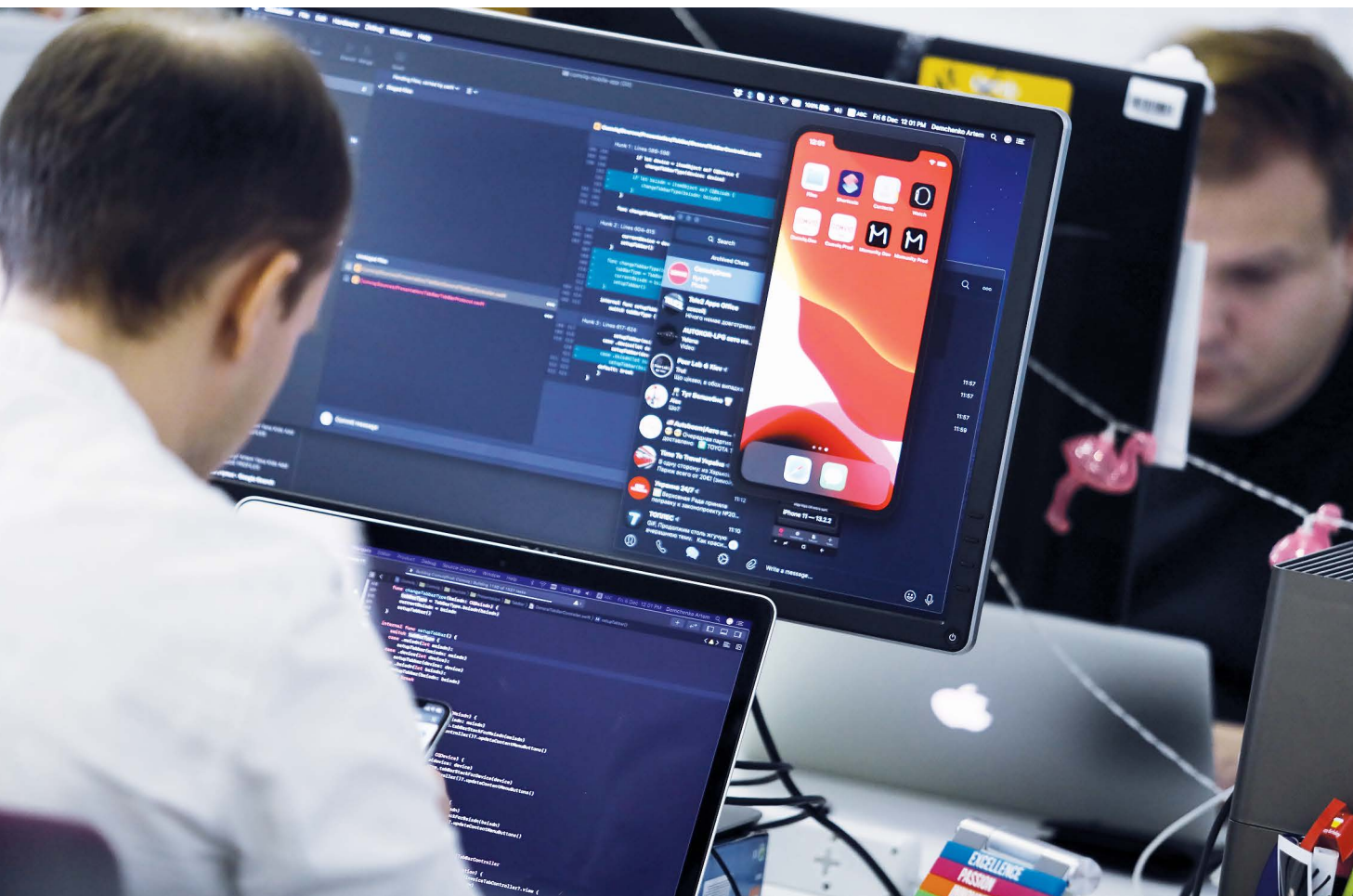
"It's not depressing to work for the state at all. I like it," said Fedorov.

While he understands that digitalizing the country completely will take years, Fedorov is sure that it will happen because there is a strong political will to do it.

"Every time Volodymyr Zelensky or Andriy Bohdan (the head of the president's administration) call me, their first question is: 'Where is The State in a Smartphone?'" said Fedorov. "They all help me." ■

Nulla dies
sine linea

Jurline
law firm



Information technology specialists work in the Kyiv office of tech firm Ciklum on Dec. 6, 2019. The company employs almost 3,000 Ukrainian tech people. (Oleg Petراسиuk)

Ukrainian IT rides global wave, needs better dialogue with government

By **Natalia Datskevych**,
datskevych@kyivpost.com

Ukraine's new parliament and Cabinet of Ministers have a record number of people who previously worked in the information technology industry.

And one of the key tasks for these people is to increase the already rapid pace of local IT development. The industry's revenues increase by 30% every year and could reach \$5.4 billion by the end of 2019.

"We hope to double this number in the next five years,"

Oleksandr Boryakov, deputy minister of digital transformation, says.

But expectations from the tech community — which accounts for 5% of Ukraine's gross domestic product — also seem to be high. Tech specialists expect the government to help with funding, implement fair taxation, develop technology education and improve laws affecting their sector.

Ukraine's fifth largest tech employer, IT firm Ciklum,

believes this is possible, given that the new government seems prepared for a stable dialogue.

“There’s a feeling that they are ready to listen and react,” says Oleksandr Snidalov, Ciklum’s vice president of delivery.

Big appetites for IT specialists

With the tech profession’s popularity booming domestically, Ukraine has ranked 11th among the top 50 countries with the best software developers in the world in 2019, according to a report by Ukrainian IT service company N-iX.

By the end of 2020, an additional 20,000 new tech specialists are expected to join the already existing 200,000-employee Ukrainian tech community across companies concentrated mainly in Kharkiv, Kyiv, Lviv, Dnipro and Odesa.

Ukraine’s biggest tech employer, EPAM, hired 1,500 IT specialists alone in 2019, bringing its staff to a total of 7,500.

“There is an ambition, combined with real opportunities, to overcome the mark of 10,000 IT developers within a year or two,” says EPAM Ukraine head Yurii Antoniuk.

However, such a rapid growth in the industry could be even higher. Experts say the market can employ many more IT specialists. Currently, however, there just aren’t enough of them in Ukraine.

Around 20,000 new specialists graduate from Ukrainian universities every year. Ideally, that number must be around 60,000 a year to satisfy the needs of the tech market.

“The industry could absorb twice as many as the country can currently offer,” says Andrey Kolodyuk, managing partner at venture firm AVentures Capital.

But even after graduating from university, students do not always have the right level of education to get a job in leading companies. Often, big tech companies in Ukraine have their own internal academies to teach the profession to newbies.

In Lviv, a city located 540 kilometers west of Kyiv that is Ukraine’s third largest tech hub, state universities and private firms cooperate to solve the problem of IT education.

The Lviv IT Cluster, an association that unites around 100 tech companies, cooperates with two universities, Lviv Polytechnic National University and Ivan Franko National University of Lviv. The association prepares special training courses and provides its own experts to teach students.

The total number of students already involved in the association’s programs is over 2,000. And apart from teaching them, it also helps them find work.

“It is know-how to help grads in the future to find a job,” says Stepan Veselovskyi, the CEO at Lviv IT Cluster.

Prices going up

With such a high demand for more tech specialists, the salaries offered to potential employees are going up too.

The average salary of an IT specialist in Ukraine is around \$2,175 — almost six times higher than salaries in other industries, according to the latest research by the Kharkiv IT Cluster.

This creates another issue: Unlike India, Ukraine is no longer a country with a cheap labor force in IT.

“Ukraine is already not in the cheap segment (anymore),” AVentures Capital’s Kolodyuk says.

PUBLIC-PRIVATE PARTNERSHIPS IN THE CONSTRUCTION SECTOR



Poberezhnyk Alyona
PhD in Law, counsel at
GORO legal Law Firm

The legal grounds for development of certain forms of public-private partnerships (PPP) have been forming in Ukraine for quite some time.

To put it simply, PPPs are contract-based, long-term arrangements between public authorities or local self-governments and privately-owned legal entities with the purpose of attracting investment, development, introduction and management of public facilities and services traditionally provided by the public sector.

Pursuant to Article five of the Law of Ukraine on PPPs, the following forms of PPPs are envisaged: concession agreements; property management agreements (provided that the private partner also has investment obligations); agreements on joint activities; other agreements (mixed agreements).

Concession agreements

On Oct. 3, 2019, the Law of Ukraine on Concession was adopted to improve legal regulation of concession activity and harmonize legislation in the sphere of PPPs.

Under a concession agreement, a private partner (concession holder) receives exclusive rights from the state for operation, servicing, investment and obtaining profits from a state-owned asset. For this, he pays either a fixed amount or a percentage of profit or asset value to the state (concessor).

The key advantages of Ukraine’s new law on concessions are provisions for termination and establishment of procedures for initiating partnerships, tenders on selection of the private partner and settlement of other organizational issues and the establishment of clear procedures for this form of PPPs.

In addition, the new law envisages a number of guarantees for the protection of participants of PPPs, in particular guarantees for concession holders and creditors (the right to replace a concession holder with a different one, availability of special or exclusive rights of the concession holder, etc.); simplification of the procedure of allocation of land plots for the PPP projects; procedures for transforming leases into concessions upon the request of leaseholder; the possibility of free choice in dispute settlement mechanisms and the exclusion of the effect of the law on public procurement of concessions.

Property management agreement

Considering the possibility of a property management agreement for the implementation of a PPP project, one should take into account the typical features of such mechanisms.

In particular:

- The legislation does not contain special norms that would determine peculiarities of legal relations in terms of property management as one of the forms of a public-private partnership;
- The absence of successful and widely used practices for implementing property management projects in Ukraine, in particular in the sphere of public utility property;
- The necessity of making a payment to a manager and the absence of grounds for carrying out improvements to property, which is managed by a private partner.

Agreement on joint activities

A typical example of a joint activity project that uses the PPP mechanism on regional and local levels include residential construction projects under which a private partner undertakes to plan, build and finance all design and development works while a local government grants the right to use the land plot and ensures the necessary documents are issued according to local regulations.

After the completion of construction, the territorial community then gains municipal ownership rights for certain parts of the residential building (for example, a specific number of apartments provided for the specific needs of residents) or gains the right to use such facilities on privileged conditions/free of charge.

Mixed agreements in PPPs

Ukrainian law does not provide a clear definition of a mixed agreement, only envisaging the possibility of a conclusion to an agreement by the parties that contains elements of different agreements (a mixed agreement).

An investment agreement is one of the most popular forms of a mixed agreement, though these too are not sufficiently regulated by current laws, which creates certain problems for using this mechanism to structure investment projects.

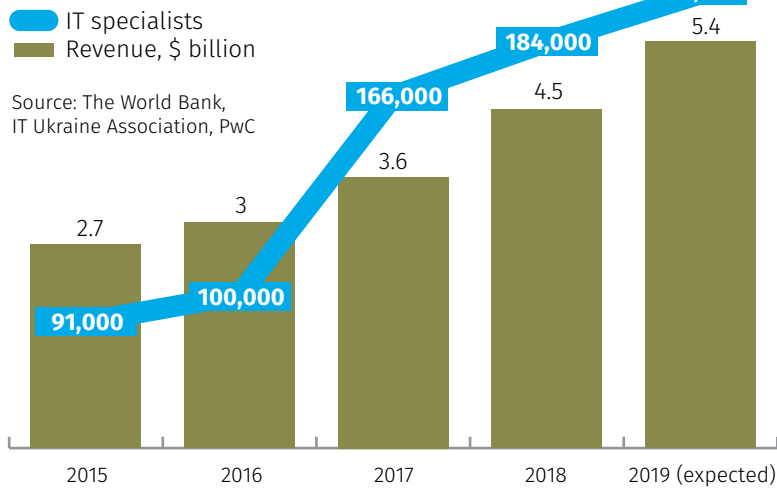
Taking into account the above as well as the successful international practice of using public-private partnership arrangements, it follows that PPPs are an effective method of combining state resources with private sector investment to develop the infrastructure, construction and implementation of ambitious projects.

“GORO legal” law firm

Kyiv, 72, Bolshaya Vasilkovskaya str, office 21
+38 (044) 383-18-57
+38 (050) 436-00-77
info@goro.in.ua, goro.ua

GORO legal

The number of IT specialists and the revenue of the industry in Ukraine



Source: The World Bank, IT Ukraine Association, PwC

Despite the war with Russia and political turbulence, the Ukrainian tech industry has been showing significant growth over the last years, generating revenue twice as high as in 2015. By the end of 2019, it's expected to reach around \$5.4 billion.

As a result of this change, some companies are looking to other places to minimize their costs. For example, Ciklum has already opened a branch in Pakistan.

Positive trends

Ukraine's IT industry has also started gradually switching from a pure outsourcing destination to a place that provides tech services, something that adds value for clients, according to Ciklum's Snidalov.

"In general, it's a really positive tendency. It means the Ukrainian market can compete better with European, Indian and American companies," he says.

Plus, Ukrainian IT product companies, including startups, have begun to develop more actively.

Kostyantyn Vasyuk, executive director at the IT Ukraine Association, cites Ajax Systems, a Ukrainian tech company that makes wireless security systems, as an example. It has just opened a new research and development center in Kharkiv.

On a larger, national scale, the Ukrainian IT startup community has already produced three so-called "unicorns," tech startups valued at over \$1 billion.

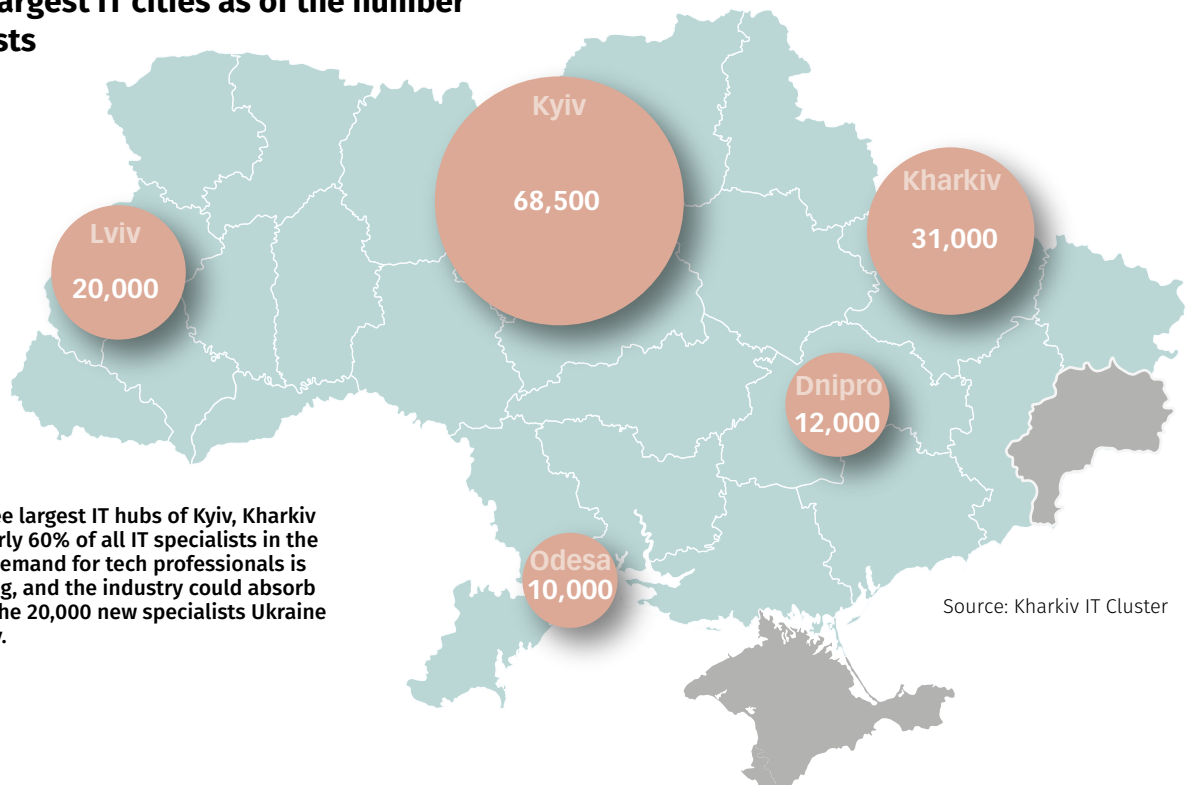
The last one recognized as a Ukrainian unicorn was Grammarly, a firm that makes an online, artificial intelligence-powered text proofreader with more than 20 million daily users.

"Unicorns create a very important benchmark for the industry and for investors," says Kolodyuk, an investor himself.

In 2019, the creation of the Ministry of Digital Transformation of Ukraine was also a significant event for the IT industry. It creates new opportunities for the development of the internal market of high technologies, according to experts.

"One of the key projects of the ministry, The State in the Smartphone, is a potential driver for the development of internal demand for IT services," says the IT Ukraine Association's Vasyuk.

Ukraine's largest IT cities as of the number of specialists



Ukraine's top three largest IT hubs of Kyiv, Kharkiv and Lviv hold nearly 60% of all IT specialists in the country. But the demand for tech professionals is constantly growing, and the industry could absorb twice more than the 20,000 new specialists Ukraine can offer annually.

Source: Kharkiv IT Cluster

Legal issues

Even though successful tech startups can be born in Ukraine, they almost always leave the country, incorporating their businesses mostly in the United States. The reasons for that, they say, include the lack of investments and regulation problems at home.

For the past three years, this problem has been raised several times in the Ukrainian parliament, but the discussions had no effect, according to Kolodyuk.

“Currently, the legislation is outdated. It is not operating in the right way for real venture funds (to come to Ukraine),” Kolodyuk says.

The way to solve it, he believes, is to create a so-called “fund of funds” that would raise money from international donors and give it to some 20 local venture funds. This fund would require the Ukrainian government to take part in financing startups and provide around 10% of the needed money as well.

Such a model, the investor says, is similar to the one that has been operating for two decades in European countries.

Kolodyuk estimates that, should the government give this fund of funds \$10 million, this body will then potentially be able to raise \$500 million from other donors like the EBRD. These donors would see the Ukrainian government’s interest as a positive sign.

The previous government discussed the creation of such a fund, but the talks led to nothing. Now, Kolodyuk sees that the new government has renewed its interest in the idea.

The investor also urges the Ukrainian government to discuss taxing large international companies like Google, Netflix and Apple so that conditions for both international and domestic tech industry players are equal.

So far, however, the market has perceived attempts to introduce additional taxes on the tech community negatively. For example, when the government suggested increasing taxes for Ukraine’s individual entrepreneurs, it received huge pushback.

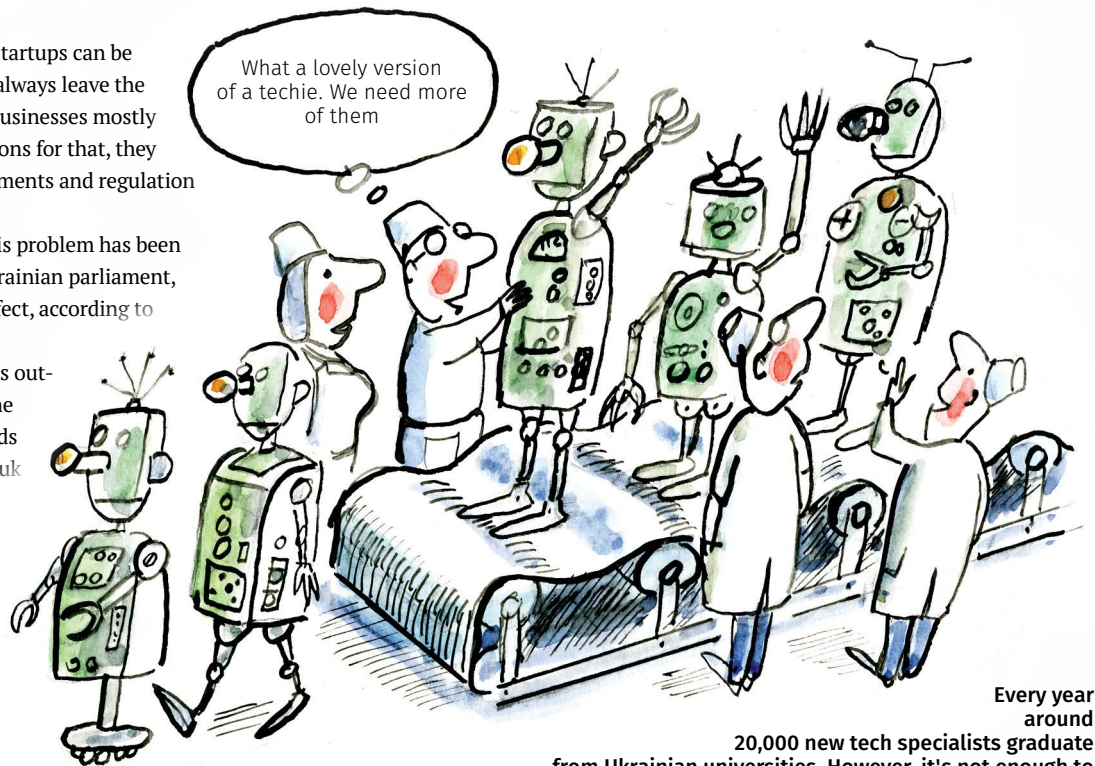
About 200,000 of Ukraine’s 1.3 million individual entrepreneurs are tech specialists.

“We need the government to act on creating investment protections and clear rules of the game on taxation,” says Oleg Krot, a managing partner at tech holding Techiiia.

A predictable market and a systematic approach to the development of education in Ukraine are also on the tech industry’s “wish list.”

“Now the industry has two scenarios — to leave everything as it is now or to change something,” says EPAM’s Antoniuk.

“Depending on this decision, the industry will either become the driver of the economy, giving high-paying jobs, or will forever remain yet another industry with ‘high potential.’” ■



Every year around 20,000 new tech specialists graduate from Ukrainian universities. However, it's not enough to sate the local IT industry's demand, which is currently twice as high.

SDM PARTNERS
LAW FIRM

FULL RANGE OF LEGAL SERVICES

YESTERDAY WE WERE **BEYOND YOUR**
TOMORROWS' **EXPECTATIONS**

sdm-partners.com



Employees of Israeli IT firm Ignite at work in the company's Kyiv office. In Ukraine, most of IT work is done by individual entrepreneurs instead of regular employees, which lets both entrepreneurs and companies avoid payroll taxes. (Kostyantyn Chernichkin)

Tax changes on horizon for IT entrepreneurs

By **Igor Kossov**
kossov@kyivpost.com

Will tax reforms help or hurt Ukraine's growing information technology sector?

This question is on the mind of most tech professionals and the companies that employ them, as the government again considers taxation changes that will affect most of the industry.

Millions of Ukrainians work as "individual entrepreneurs," which allows them to pay a low, simple tax rate of 5% on their work income. And according to a survey by the industry publication DOU, almost 90 percent of IT earnings go to private entrepreneurs.

Alternatively, regular employees pay a 19.5% tax on their work income, while their

employers pay an additional 22% tax on the gross salary.

In many cases, individual entrepreneur status makes sense. Many IT specialists have flexible conditions, do work for multiple employers, or develop their own projects.

However, it also opens up the segment for abuse by companies, when a big firm hires programmers as if they are simple employees but, then, asks them to register as individual entrepreneurs to save on taxes.

And as the legality of using individual entrepreneurs is ambiguous, it creates a tax risk: law enforcement agencies can use it as a reason to conduct searches of IT firms, which makes room for corruption and thus discourages foreign investors.

Hence, plans to change how individual entrepreneurs are taxed have been in the works for years. There has always been a challenge of how to separate actual individual entrepreneurs from those who simply uses this status to save their companies' money.

“If tax fees for IT professionals in the simplified tax system change upward, Ukraine will become uncompetitive on the international IT market.”

— Konstantin Vasyuk,
executive director at IT Ukraine Association

“Every time a new administration comes to power, they say let's change IT taxes,” said Kira Rudyk, the deputy chair of the Verkhovna Rada Committee on Digital Transformation and head of the working group on IT tax reform.

According to the Ministry for Digital Transformation, a total of 158 individual entrepreneurs and 59,806 employees worked for 15,423 employees in the first six months of 2019.

A controversial bill to place individual entrepreneurs in IT into a new, higher tax category failed in the previous parliament: it was widely criticized by the industry players.

Hence, more recently, the parliamentary committee on digital transformation and the Ministry of Digital Transformation have started working on several alternatives, including yet another tax category or a restructuring of payroll taxes for companies.

Although no changes are expected to take place until the start of 2021 at the earliest, many IT professionals are already worried about how these reforms would be implemented. If mishandled, the changes will, at best, have no effect, and at worst, torpedo the sector's growth, driving companies and top talent overseas.

And ensuring the industry's growth, according to Rudyk, is the government's top priority.

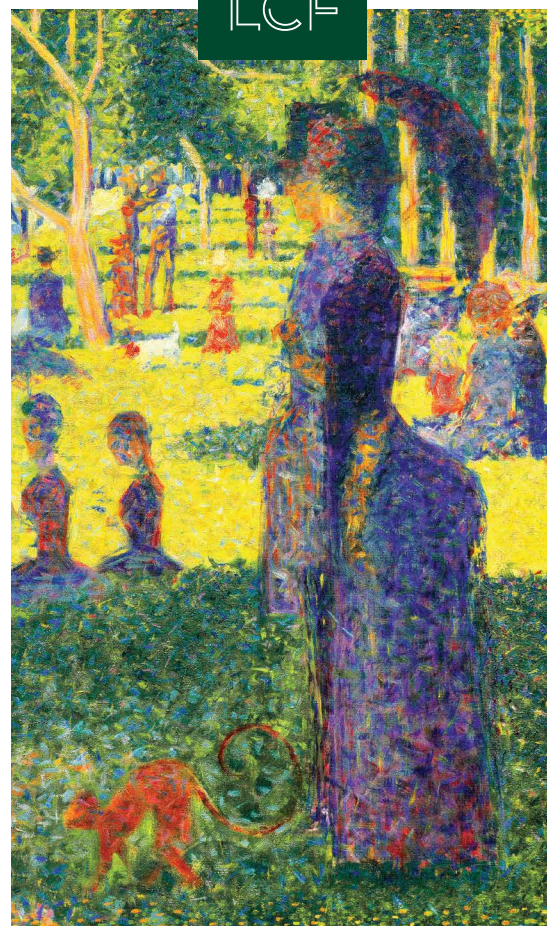
Pros and cons

While the low simple tax rate for individual entrepreneurs encourages business, it's often applied in an inconsistent, ambiguous way.

Most regular full-time employees in the IT industry are listed as individual entrepreneurs, which lets companies get out of paying higher taxes but also avoid employer obligations.

“There is huge abuse here, like our own internal offshore,” said Constantin Solyar, a tax partner at law firm Asters. “In many cases, it's hidden employment.”

Roman Kachanovskyi, a lawyer who works for IT professionals, said that many



Georges Seurat

LAW AS SCIENCE, CULTURE, ART

Spectral analysis

of them don't fully understand tax law and are shepherded into the individual contractor role by the companies that employ them.

Others enjoy the simplified 5% tax rate and support it. For many, it's a reason not to join the steady stream of professional emigres leaving the country.

The system helps foreign companies hire local talent, overrides some downsides of doing business in Ukraine and helps with flexible working conditions. For many, individual entrepreneurship is the best way to go.

Still, the gray area of using individual entrepreneurs as employees presents a huge tax risk — tax authorities could crack down at any moment. This discourages investment from top firms that are strict on compliance and already cautious about Ukraine's weak court system.

"A significant number of investors interested in the Ukrainian tech sector refuse to participate in investment rounds upon finding out that employment structure involves individual entrepreneurs," Volodymyr Kryvko, managing partner of Chernovetskyi Investment Group, wrote in an email.

"At the same time, some companies remain profitable only by using individual entrepreneurs and their liquidation will significantly decrease their marginality."

Industry caution

Industry representatives have also cautioned that over-eager changes that raise effective tax rates may cause the industry to pack up and leave.

Konstantin Vasyuk, the executive director of the industry association IT Ukraine, wrote in an email that total tax burden on IT companies' payroll funds should not exceed 10–12%.

"If tax fees for IT professionals in the simplified tax system change upward, Ukraine will become uncompetitive on the international IT market," Vasyuk wrote.

Denis Belozorov, who remotely configures computers and websites, said that a simplified tax system enables him to work legally. He is worried about possible changes that may make it harder for him to make a living.

"Now we have begun to feel some kind of instability," he said. "I have not felt this since 2009, when I registered as an entrepreneur."

According to Belozorov, when monthly income is between \$500 and \$1,000, even a 5% tax increase is significant.

Many IT professionals distrust the government's plans to reduce reliance on individual entrepreneurs and fear that higher taxes would go into officials' pockets.

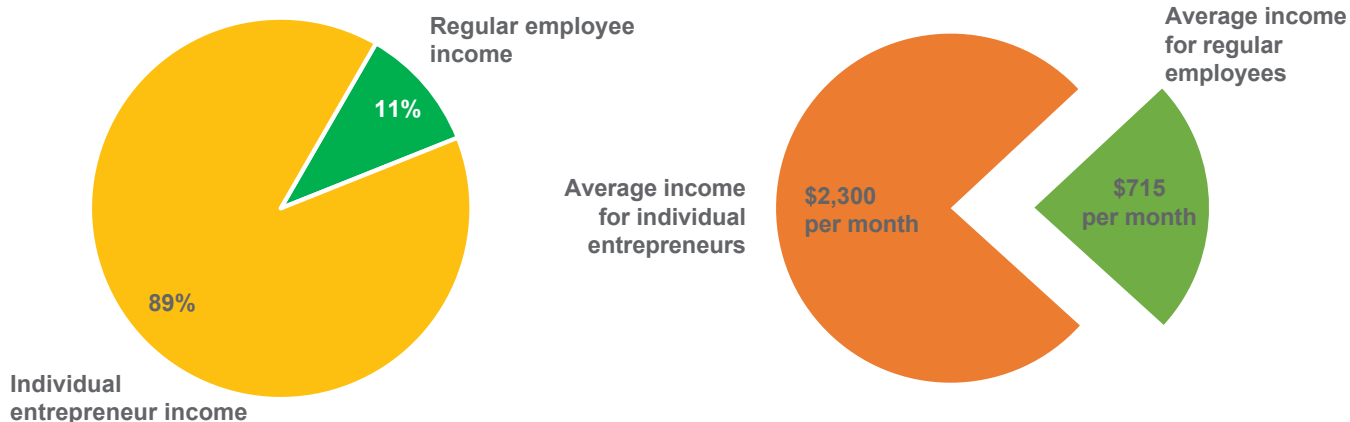
Yulia Sychikova, the chief operating officer at big data

Millions of Ukrainians work as "individual entrepreneurs," which allows them to pay a low tax rate of 5% on their work income. In many cases, this status makes sense, but it also opens up the segment for abuse by companies, when big firms asks its employees to register as individual entrepreneurs to save on taxes.



Individual entrepreneur income versus employee income in the IT sector

2018 - H1 2019



solutions company DataRoot Labs, said had it not been for low taxes, mobile tech professionals would have preferred another country to Ukraine.

“Engineers can work from anywhere, the low taxes have actually stimulated many people to stay here,” she said.

Sychikova heard some outrageous stories of what people are willing to do to avoid taxation, including moving full time to other countries or spending 180 days per year on a boat in international waters.

According to her, outsource companies usually have 15% profits and every percent tax increase hurts that margin.

“That being said,” Sychikova said, “I think that Ukrainians and the IT sector as well have to understand that at some point, they have to pay taxes. We have to grow up a little and not compete just on price.”

Creating new tax group

Officials told the Kyiv Post that they hope to propose tax changes before the year ends. But then, it might take at least a year for the changes to come into force.

Ukraine’s State Tax Service splits entrepreneurs into four groups depending on their revenues and line of work. The third group is the simplest and most numerous. Private entrepreneurs registered in the third group pay a 5% revenue tax and a social tax of \$360 per year.

Rudyk said that her committee is working on several versions of a new tax structure for IT, to help do away with the ambiguity of the third group and reduce the tax risk. One option is to create a fifth group encompassing existing companies that work with individual entrepreneurs; it would have its own tax rate.

Aleksandr Bornyakov, the deputy minister of digital transformation in charge of developing the IT sector, said that he is not a fan of this method because it’s “just another employer-entrepreneur relationship, not too different from the previous attempts.”

The bill that failed in August, for example, would also

have create a fifth group, although it was structured differently. The idea of a fifth group highly unpopular, with 80% of IT experts rejecting it outright, according to a DOU survey.

While officials said that this fifth group would be voluntary for companies, 91 percent of surveyed IT professionals believe that everyone will be forced to switch. Kachanovskyi believes this will most likely be done indirectly.

Taxing enterprises

Another possible method would be to stimulate companies into incorporating in Ukraine and switching their labor force from entrepreneurs to employees, according to Rudik. This could improve investment but has major difficulties in making foreign companies register in Ukraine.

The challenge is how to provide a strong enough incentive, as the gap between individual entrepreneur and employee taxes is extremely large. Legal professionals believe that the state must reduce that gap before meaningful reforms can be effected.

Bornyakov envisions a plan to replace a tax on individual employees’ paychecks with a unified tax, which would be lower than the current payroll taxes. Smaller enterprises and companies would get to keep their individual entrepreneur model, but larger firms would need to restructure and use employees.

The exact cutoff has yet to be determined. Bornyakov suggested that companies might apply to use individual entrepreneurs if their payroll expenses are above 60% and if 70% of their revenue comes from abroad.

He added the law would leave the actual individual entrepreneurs alone and they would continue to enjoy the same tax rate.








Lawyer Solyar said that this kind of “group” tax model for a company’s total income is used in more sophisticated economies. However, those economies also have sophisticated incentives, which are absent in Ukraine. ■

Millions of Ukrainians work as individual entrepreneurs, which allows them to pay a low tax rate of 5% on their work income. And according to a survey by the industry publication DOU, almost 90 percent of IT earnings go to private entrepreneurs.

LEGAL SERVICES

ADVERTISEMENT

Listing is arranged in alphabetical order

Phone number	Top executives	HQ	Est.	Main Specialization, services	Major clients	Languages
Aleksandr Peremezhko & Partners 36D Yevhena Konovaltsa St., 7th floor, office 54.2, Kyiv 01133, Ukraine; office@opp.com.ua www.opp.com.ua <div style="float: right; text-align: right;"> ALEKSANDR PEREMEZHKO & PARTNERS <small>attorneys at law & consultants</small> </div>						
+38 044 364 3777	Aleksandr Peremezhko	Kyiv, Ukraine	2010	Litigation & Arbitration; Tax and Customs; Corporate and M&A; Competition and Anti-monopoly; Media and Communication; Intellectual Property; White Collar Defense	Bershka Ukraine, Sharp Electronics Ukraine, Lego Ukraine, B&H, UFD, LeDoyen Studio, Ciklum Ukraine, AstraZeneca, Panama Grand Prix, Metinvest, Oysho Ukraine	English, German, Polish, Russian, Ukrainian
Alekseev, Boyarchukov and partners 11 Shota Rustaveli St., Kyiv 01001, Ukraine; office@abp.kiev.ua www.abp.kiev.ua <div style="float: right; text-align: right;"> ALEKSEEV BOYARCHUKOV & PARTNERS </div>						
+38 044 235 88 77	Sergey Boyarchukov	Kyiv, Ukraine	2005	Dispute resolution, Bankruptcy and Debt restructuring, Criminal law, White-collar Crime, Tax	JSB "Ukrgasbank", JSC "Sberbank", Discovery Drilling Equipment, "TUTKOVSKY" group of companies, "Siver bud" LLC, Capital Bank, FC "Geneva", Mriya Invest, "Kolkhozny rynek" LLC, PJSC "Luhtsentrokuz"	Ukrainian, English, Russian
Ante Law Firm 45A Nyzhnoyrkivska St., Kyiv 04080, Ukraine; office@antelaw.com.ua www.antelaw.com.ua <div style="float: right; text-align: right;">  </div>						
+38 044 277 2300	Andriy Guck, Kateryna Ishchenko, Roman Storonskiy	Kyiv, Ukraine	2015	Litigation; Corporate; White collar; Transport & Infrastructure; Aviation; Energy & Natural resources; Employment; IP; Tax & Customs; Pharmaceuticals; Antitrust & Competition	Air France-KLM, Alitalia, Austrian, British Airways, Emirates, Ernest S.p.A., flydubai, Lufthansa, Qatar Airways; Agentskiy; DFU AGRO; Perrigo Ukraine, Sanofi-Aventis Ukraine, Zdrovo; XPH Ukraine; Dogusan	English, Russian, Ukrainian
Asters Leonardo Business Center, 19-21 Bohdana Khmelnytskoho St., Kyiv 01030, Ukraine; info@asterslaw.com www.asterslaw.com <div style="float: right; text-align: right;">  </div>						
+38 044 230 6000	Oleksiy Didkovskiy, Serhii Sviriba, Armen Khachatryan		1995	Full-service law firm with offices in Washington, D.C., London, and Brussels	EBRD, Ferrero S.p.A., General Electric, IFC, Norsk Solar, Privatbank, Salini Impregilo, Teva	English, Russian, Ukrainian
Axon Partners 36E Yevhena Konovaltsia, Kyiv, 01133, Ukraine; poke_us@axon.partners www.axon.partners <div style="float: right; text-align: right;">  </div>						
38 044 578 2337	Dima Gadomskiy, Oksana Kobzar, Yuriy Kornaga	Kyiv, Lviv, Kharkiv, Ukraine	2016	Software development, Gaming, E-commerce, Fintech, Agrotech, Legaltech, VC, IT integration, IT outsourcing, Medtech, Telecom	BlaBlaCar, TripMyDream, 908.vc, DOU, robota.ua, Hosting Ukraine, RadarTech, Poster, Vitagramma, Grupa Pracuj, Datas, LikarniCOM, Infobip, Preply, SeedStars, Very Good Security Inc, Cryptagio, Beetroot	English, Ukrainian, Russian
B.C. Toms & Co 18/1 Prorizna St., Suite 1, Kyiv 01001, Ukraine; kyiv@bctoms.net www.bctoms.net <div style="float: right; text-align: right;">  </div>						
+38 044 490 6000 +38 044 278 1000	Bate C. Toms	Kyiv, Ukraine	1991	Agricultural Investments; Oil Gas and Electricity; M&A; Arbitration, Litigation and Dispute Resolution; Customs and Tax; Administrative Law; Banking; Finance & Capital Markets	WND	English, French, Russian, Ukrainian
CMS Cameron McKenna Nabarro Olswang 38 Volodymyrska St., 6th floor, Kyiv 01030, Ukraine; KyivOffice@cms-cmno.com cms.law, cms-lawnow.com <div style="float: right; text-align: right;">  </div>						
+38 044 391 3377	Graham Conlon	London, UK	2007	Infrastructure; Corporate and M&A; Banking and Finance; Commercial; Tax&Customs; Competition; Dispute Resolution; Compliance; Employment; Property; Technology Media and Communication; Agribusiness; Lifesciences/Pharmaceuticals; Intellectual Property; Energy, Private Equity	WND	English, French, German, Ukrainian, Russian
CMS Reich-Rohrwig Hainz 19B Instyutska St., Kyiv 01021, Ukraine; kyiv@cms-rrh.com cms.law, cms-lawnow.com <div style="float: right; text-align: right;">  </div>						
+38 044 500 1718	Johannes Trenkwalder	Vienna, Austria	2006	Agribusiness, Antitrust, Banking & Finance, Commercial, Compliance, Corporate/M&A, Dispute Resolution, Employment, Energy, Infrastructure, IP, Public Procurement, Real Estate, Restructuring, Tax, TMT	WND	Ukrainian, Russian, English, German
Dentons (LLC Dentons Europe) 49A Volodymyrska St., Kyiv 01034, Ukraine; kyiv@dentons.com www.dentons.com <div style="float: right; text-align: right;">  </div>						
+38 044 494 4774 +38 044 494 1991	Oleg Batyuk	Global law firm	1992	Banking and finance; Corporate/M&A; Dispute resolution; Investments; IP&T; Real estate and Construction; Restructuring; Tax	Multinational corporations, commercial and investment banks, energy companies, developers, hotel chains, investment funds, international organisations	English, Russian, Ukrainian

Phone number	Top executives	HQ	Est.	Main Specialization, services	Major clients	Languages
--------------	----------------	----	------	-------------------------------	---------------	-----------

Eterna Law

Gulliver Business Centre, 1-A Sportivna sq, 32 floor, Kyiv, 01001; pr@eterna.law
eterna.law



+38 044 490 7001	Andrey Astapov, Oleh Malskyy, Oleh Beketov, Eugene Blinov, Oksana Kneychuk, Maksym Uslysty, Alexander Lugovskyy, Denis Kytzenko	Kyiv, Ukraine	2002	Dispute resolution, corporate, M&A, tax, international finance, compliance, regulatory enforcement, IP, insolvency, construction, real estate acquisitions, oil and gas, infrastructure, public procurement, Chinese Desk, Alternative Energy	Baxter, Bayer, Bioton, Bunge, CDMA, Huawei, China National Oil Corporation, Energoatom, FHI 360, EFKO, Mriya, United Grain Company, Nemiroff, MasterCard, Mechel, Metagenics, Nutricia, DTEK	English, Russian, Ukrainian, German, Polish, Latvian
------------------	--	------------------	------	---	--	--

EXPATPRO Law Firm

18 Vasylia Lypkivskoho St., 3rd floor, Kyiv, 03035, Ukraine; office@expatpro.co
www.expatpro.co



+38 044 339 98 81	Liubomyr Kuziutkin, Vasyl Cherednichenko	Kyiv, Ukraine	2016	Immigration law, Investment, Corporate and M&A, Commercial/Business law, Real Estate, Family law	WND	English, Russian, Ukrainian
-------------------	---	------------------	------	--	-----	-----------------------------

GOLAW

19B Instyutskha St., office 29, Kyiv 01021, Ukraine; info@golaw.ua
www.golaw.ua



+38 044 581 1220	Valentyn Gvozdiy, Sergiy Oberkovych	Kyiv, Ukraine	2003	Tax; Antitrust and Competition; Banking and Finance; Governmental Relations; Litigation and Dispute Resolution; Corporate Recovery and Insolvency; Corporate Recovery and Insolvency; Intellectual Property; Compliance, Corporate Governance and Risk Management; Corporate and M&A; Criminal Law and White-Collar Defence; International Trade; Maritime Law; Real Estate; Private Clients; Renewable Energy; Environment Protection; Anti-Corruption and Anti-Bribery; Restructuring, Claims and Recoveries; Employment	ADM-Trading; Azelis; Česká exportní banka, a.s.; EGAP; Enkom a.s.; Expobank CZ a.s.; Galicia Distillery; GAP; Inditex Group; KBPP Management Ltd.; Lars Export; Marks&Spencer; Mercator Medical; Omya; Oriflame; Printec; ProCredit Bank; Reckitt Benckiser; Red Bull; Syngenta; Ubisoft	English, Ukrainian, Russian, German, Polish
------------------	--	------------------	------	--	--	---

Gramatskiy & Partners

16 Mykhailivska St., Floor 2-4, Kyiv 01001, Ukraine; office@gramatskiy.com
www.gramatskiy.com



+38 044 581 1551	Ernest Gramatskiy	Kyiv, Ukraine	1998	Business-Advocacy; Foreign Investments; Foreign Trade; Business Protection; Real Estate&Construction; Agribusiness; IT; Litigation; Taxation; Business Restructuring; Due Diligence; Debts&Bankruptcy	City Capital Group, Seven Hills, Danfoss, De-vi, PlayTech, Keystone Trading Technologies, Skywind Tech UA, SBTech, IT Enterprise, ULMA Ukraine, Celentano, Banka, Jeltok, Promkabel, Larsen, Fornetti, Graal, All-Ukrainian Advertising Coalition, Art-zavod Platvorma, Coworking Platforma	English, Italian, Polish, Russian, Ukrainian
------------------	-------------------	------------------	------	---	---	--

Jeantet

4 Volodymyrska St., 3 floor, Kyiv, 01001, Ukraine; bbarrier@jeantet.org
www.jeantet.fr



+380 44 206 0980	Karl Hepp de Sevelinges, Bertrand Barrier	Paris, France	2015	Corporate and M&A, Banking & Finance, Capital Markets, Dispute Resolution, Competition and Antimonopoly issues, Distribution agreements, Real Estate	Multinational corporations, international financial institutions, foreign and Ukrainian banks, European and Ukrainian companies	Russian, Ukrainian, English, French, German
------------------	--	------------------	------	--	---	---

Jurline

Royal Gardens Business Centre, 66/1 Frantsuzky boulevard, Odesa 65009, Ukraine; office@jurline.ua
www.jurline.ua



+380 48 738 0893 +380 48 235 6517	Volodymyr Zubar	Odesa, Ukraine	1994	Corporate & M&A; Litigation; Real Estate & Construction; International Trade & Arbitration; Transport and Infrastructure, Agriculture and Land; Shipping and Maritime; Criminal Law & White-Collar Crime; Antitrust and compliance	TIS-Grain Ltd., TIS-Mindobryva Ltd., Transinvestservice, TIS-Ruda, ZARS, Kadorr Group, Fontan Sky Shopping Center, PJSC "Vostok Bank", Illichivsk Grain Terminal, SHABO, Sarmont Group, Odesa National Scientific Library, Odesa Fine Arts Museum, Palma Group, Baltic Control Ukraine, Glencore Agriculture Ukraine, Bastion	English, Ukrainian, Russian, German
--------------------------------------	-----------------	-------------------	------	--	---	-------------------------------------

Phone number	Top executives	HQ	Est.	Main Specialization, services	Major clients	Languages
--------------	----------------	----	------	-------------------------------	---------------	-----------

Law Firm GORO legal

72 Velyka Vasylkivska St., office 21, 13th floor, Kyiv 03150, Ukraine; info@goro.in.ua
www.goro.ua

GORO legal

+38 044 383 1857 +38 050 436 0077	Goroshynskiy Oleksandr, Ovsiy Dmytro, Kornev Igor, Belaya Yana, Poberezhnyk Alyona	Kyiv, Ukraine	2010	Services; Litigation; Labor Law (employee benefits and executive compensation); Land, real estate, construction; Corporatization; Intellectual property; White collar and regulatory defense; Art; Industries; IT technologies and start-ups; Trade; Finance; Agro; Government Sector; Construction; Healthcare; Electric power and renewable energy	SOCAR Ukraine, Kyivmiskbud, Kyivpastrans, METRO Cash & Carry Ukraine, Kyivoblenergo, SAGA development, Agromars Complex, Altis-Development, XXI Century, NOVUS UKRAINE, Stoitsa Group, LUN, Apollo Group Company, MERX, Sotheby's, Bulkestate	English, Russian, Ukrainian
--------------------------------------	--	------------------	------	--	---	-----------------------------

LCF Law Group

47 Volodymyrska St., office 3, Kyiv 01001, Ukraine; info@lcf.ua
www.lcf.ua



+380 44 455 8887 +380 44 502 5523	Anna Ogrenchuk Ph.D., Managing Partner, Attorney at Law, Artem Stoyanov Ph.D., Senior Partner, Attorney at Law, Olena Volyanska Partner, Attorney at Law, insolvency practitioner	Kyiv, Ukraine	2009	Dispute resolution, Banking & Finance, Bankruptcy & Restructuring, Tax Law, Arbitration Law, Corporate Law, Energy & Natural Resources, Transportation & Infrastructure, Agribusiness, Disputes with Public Authorities	Alfa-Bank, Allianz Ukraine, Arab Energy Alliance UA, AVK Confectionary Company, Bunge Ukraine, Capital Times Investment Company, EasyPay, Fozzy Group, Kyiv Cardboard and Paper Mill, MRIYA Agro Holding, OTP Bank, Ovostar Union, Prominvestbank, TAS Group, Ukravtodor, Ukrsofsbank, Universal Bank, YURIA-PHARM	Ukrainian, Russian, English
--------------------------------------	---	------------------	------	---	--	--------------------------------

Redcliffe Partners

75 Zhylyanska St., 13th floor, Kyiv 01032, Ukraine; office@redcliffe-partners.com
www.redcliffe-partners.com

**REDCLIFFE
PARTNERS**

+38 044 390 5885	Olexiy Soshenko, Dmytro Fedoruk, Sergiy Gryshko, Zoryana Sozanska- Matviychuk, Rob Shantz	Kyiv, Ukraine	2015	Antitrust; Banking and Finance; Capital Markets; Compliance; Corporate and M&A; Data Protection and Privacy; Debt Restructuring and Insolvency; Energy; Intellectual Property; International Arbitration; Litigation; Real Estate; Tax	BB Energy, BASF, Cadogan Petroleum, Ciklum, Citibank, Coca-Cola Beverages Ukraine, Deutsche Bank AG, EBRD, EIB, Export-Import Bank of the United States, Ferrexpo, FMO, Glencore International, IFC, ING Bank, INKAS Group, J.P. Morgan, LG Electronics, Louis Dreyfus Commodities, NEFCO, SALIC, Ukrnafta	English, French, Russian, Ukrainian
------------------	--	------------------	------	--	--	--

Salkom Law Firm

12 Khreschatyk St., 01001, Kyiv, Ukraine, salkom@salkom.kiev.ua
www.salkom.ua



+380 44 591 31 00 +380 44 591 31 01	Evgen Kubko, Valerii Lukomskiy	Kyiv, Ukraine	1990	Antitrust and Competition, Financial Services, Commercial Contracts, FCPA/UK Bribery Act and Anticorruption, Corporate, International Dispute Resolution, International Trade and Export Controls, Intellectual Property and Technology, Labor and Employment Law, Litigation, Mergers and Acquisitions, Private Equity and Venture Capital, Real Estate, Tax Strategy and Benefits	Accenture, Carlsberg Ukraine, ContourGlobal, Group DF, Lufthansa Ukraine, Vodafone Ukraine, Orithil, Ukrainian Construction Company, United Capital Partners, Velti, Winner Imports Ukraine, Boeing, Yuzhnoye State Design Office, State General Reserve Fund of the Sultanate of Oman (SGRF).	Ukrainian, Russian, English, German
--	-----------------------------------	------------------	------	---	--	---

SDM Partners

72-A Velyka Vasylkivska St., BC "Olimpiyskiy", 2nd entrance, 6th floor, Kyiv 03680, Ukraine; office@sdm-partners.com
sdm-partners.com

**SDM PARTNERS
LAW FIRM**

+38 044 391 6317	Dmytro Syrota, Serhiy Dzis	Kyiv, Ukraine	2008	Corporate and M&A, Antitrust & Competition, Investments, Intellectual Property, Banking and Finance, Tax, Litigation & Arbitration	MARS, Wrigley, Royal Canin, Panasonic, Honda, BIC, Grawe, Swedbank, WBC, KBC	English, Ukrainian, Russian
------------------	-------------------------------	------------------	------	--	--	-----------------------------------

Skliarenko, Sydorenko and Partners, Attorneys At Law

31 Tarasa Shavchenko Blvd., 3rd floor, office 8, Kyiv 01032, Ukraine; info@s-partners.org
www.s-partners.org



+38 044 235 8575	Oleksandr Skliarenko, Andrii Sydorenko, Andrii Trigub	Kyiv, Ukraine	2011	White Collar Crime; Dispute Resolution; Mediation; Commercial Law; Corporate/M&A; Restructuring&Bankruptcy; Banking&Finance; Tax&Customs; Medical Law; Agricultural Law; Labor Law; Private Clients	GRAWE Ukraine, OTP Bank, IDS Group Ukraine, MONBAT Ukraine, Mamamusic, PaySpace Ukraine, lifecell, UKRTOWER, KREISEL, IRM, WATSONS, SPAN	English, Russian, Ukrainian
------------------	---	------------------	------	---	--	--------------------------------

Vasil Kisil & Partners

Leonardo Business Center, 17/52A Bohdana Khmelnytskoho St., Kyiv 01030, Ukraine; vkp@vcp.ua
www.vcp.ua



+38 044 581 7777	Andriy Stelmashchuk	Kyiv, Ukraine	1992	Agricultural Business; Antitrust & Competition; Capital Markets; Corporate / M&A; Energy & Natural Resources; Finance & Securities; Intellectual Property; International Trade, Project and Trade Finance; Labour & Employment; Litigation & Arbitration; Private Clients; Public Private Partnership; Real Estate & Construction; Taxation; White-Collar Crime	WND	English, German, Russian, Ukrainian
------------------	---------------------	------------------	------	---	-----	---

Geeky Deputy Minister Bornyakov seeks to make Ukraine tech-driven economy

By Igor Kossov
kossov@kyivpost.com

In his ministry's conference room, Alexander Bornyakov, 37, has posters of superheroes and videogame characters. But Bornyakov isn't just a geek – he's a serious man with a serious task.

Appointed as the new deputy minister for digital transformation three months ago, Bornyakov has already started working on his ambition to turn Ukraine into a tech nation.

The local information technology sector is growing by up to 30% each year and has become the country's second-largest export industry after agriculture. Homegrown teams are putting together innovative products and services on a global scale.

But Ukraine's IT can be so much more, Bornyakov believes.

He has a tech background, having founded the marketing company Adtelligent. He was a former board member at advertising platform Clicky, a former managing partner at angel seed fund WannaBiz and a former board chairman at software development firm Intersog Ukraine.

His new assignments? To increase the growth of the IT sector, which now sits at \$5.4 billion; to improve its share of the economy and to increase the export of high-tech products and services from Ukraine.

Improving tech education

One major task that Bornyakov hopes to work on during his time in office is improving education. The ministry estimates that up to 40,000 IT positions remain unfilled because there is a shortage of tech specialists qualified to fill them. And that figure is growing every year.

Strong demand is "a good thing, the industry is literally booming," he said. However, it also means that "we have a shortage of public education and private educational institutions."

According to the deputy minister, Ukraine's state institutions churn out roughly 70,000 IT specialists per year and private institutions produce about 15,000. This is not enough to meet demand.

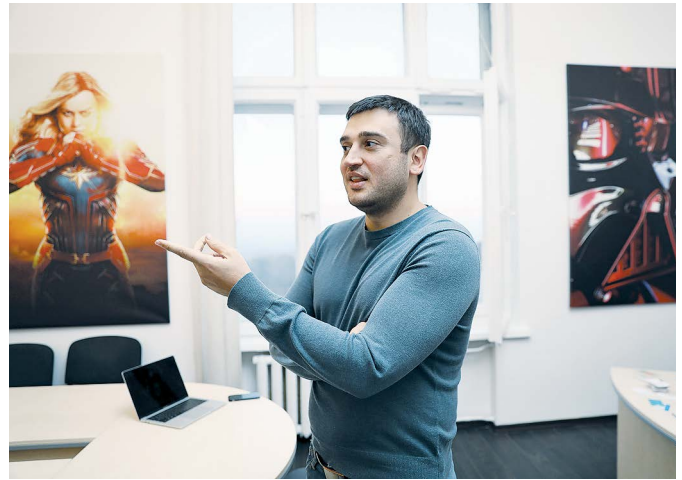
The bottleneck, he said, is mainly on the public education side. Government universities are too slow in adapting to the needs of the industry. Many are stuck in old practices from before the global tech revolution and lack sufficient courses to train people quickly and effectively enough.

Private institutions are picking up some of the slack. But getting a private institution off the ground requires millions of dollars and years of working one's way through Ukraine's opaque and ponderous bureaucracy.

Some online courses have popped up to fill the gap. One solution would be to improve their partnership with existing schools. An example is DataRoot University, developed by two former students of Kyiv Polytechnic Institute, which now partners with it to offer data science courses.

Taxing tech specialists

Another major factor is taxes. About 9 out of 10 IT specialists are



Alexander Bornyakov, the deputy minister for digital transformation, has been given the mission of boosting the growth of Ukraine's IT industry. Bornyakov hopes that he can double the industry's portion of Ukraine's gross domestic product in 5 years. (Oleg Petراسиuk)

working as private entrepreneurs, regardless of whether they're contractors or full-time employees. This is an incentive for companies and entrepreneurs alike, who can reduce their taxes and enjoy the flexibility often demanded in the IT field.

However, using entrepreneurs as employees is legally ambiguous and presents a tax risk, which deters major global players, strict on compliance, from entering Ukraine. Also, the low tax base means that there is less money to pay for expanding educational attainment to fuel the industry.

Solving this problem will be a delicate balancing game of improving how taxes are codified without driving the companies and top talent to take their business to Ukraine's neighboring countries. Bornyakov hopes to revamp taxation to incentivize companies to employ more people as regular employees and change the structure of payroll taxes to make sure large companies pay their share – without scaring them off.

Bringing investment

Investors and tech companies say that one of the biggest limiting factors on Ukraine's IT sector and homegrown tech companies in general is the absence of venture capital. While a shortage of venture capital is a global problem, it's a much bigger problem in Ukraine, because the country literally has no way to create such funds.

"I found no appropriate laws for creating venture investment accounts," said Bornyakov. "Even if you want to find funding, you have to go abroad."

His goal will be to not only help create a framework for investment capital, but also to introduce incentives and protections against legal and financial risks, so that Ukrainian companies don't have to register in Cyprus or the U.S. in order to receive much-needed funding. ■



Supporters attend the match between esports team Avangar from Kazakhstan and team Renegades from Australia at the Starladder Counter-Strike-Major tournament in Berlin on Sept. 7, 2019. The founder of NaVi, a superstar esports team from Ukraine, Alexander Kokhanovskyy believes esports could become the most popular sport in the world in the next ten years. (AFP)

Untamed esports industry rises in Ukraine

By **Alexander Query**
maillard.query@gmail.com

Electronic sports, or the competitive video game industry, is growing so fast that some experts predict it could become the world's number one sport over the next 10 years, putting even soccer out of play.

According to a report released by global analytics company Newzoo, the industry topped over \$1 billion in revenues for the first time in 2019, netting \$200 million more than in the previous year.

Teams of professional players compete for millions of dollars, and millions of viewers watch live broadcasts of video game tournaments. Game publishers create their own leagues and tournaments where players compete.

To name one, Riot Games's "League of Legends" attracts viewership in the hundreds of thousands, while prize pools often exceed \$1 million.

But as revenues from esports continue to rise, the industry remains largely untamed.

From the monetization of star players to betting and even to fixing matches, esports faces the same issues as traditional sports but with fewer safeguards. The industry's response to these challenges will shape it on local and international levels, and Ukraine is at the heart of this transformation.

Major esports hub

In Ukraine alone, there are two million people following esports. According to Newzoo, viewership during game tournaments typically reaches 1.3 million people while about 700,000 others are considered to be professional gamers.

Ukraine's legendary esports team NaVi is a top supplier of world-class talent. Founded in 2009 by Kazakh Murat "Arbalet" Zhumashevich, NaVi — short for Natus Vincere in Latin, or "Born to Win" — is one of the most successful teams on the planet.

Back in 2010, NaVi became the first team to win three major tournaments in one year in the globally popular first-person shooting game, Counter-Strike.

The team's most famous player is Ukrainian Danil "Dendi" Ishutin, who is widely considered by many gaming enthusiasts as the face of esports, inspiring a generation to consider a professional esports career.

In 2011, Ishutin won a tournament called





People play video games in NaVi Bar, a themed restaurant dedicated to video games, on Nov. 29, 2019. The bar was founded by world-famous, Ukrainian esports team Natus Vincere (“Born To Conquer”). The competitive video game industry, or esports, globally topped \$1 billion dollars in 2019. (Konstantin Chernichkin)

the International as part of NaVi, winning a record breaking \$1 million in prize money with his five-person team.

The team’s founder and former CEO Alexander “ZeroGravity” Kokhanovsky believes Ukraine is exceptional in the esports industry.

“We have strong players, strong teams and cool infrastructure,” Kokhanovsky told the Kyiv Post. He pointed out that the leading platform for esports tournaments, Starladder, is based in Kyiv. Founded in 2012, the platform broadcasts events worldwide.

For the current CEO of NaVi, Yevhen Zolotarov, Ukraine’s success lies in the country’s socioeconomic difficulties.

“It’s all about escapism,” Zolotarov said. “When you live in a small village in Ukraine, don’t have any social life but have a good computer and a decent internet connection, esports offers you a window to the world.”

The advantage for Ukrainian players rests on paradoxes, he said.

“The arcade game machines were too expensive to set up compared to the U.S. So we didn’t have an arcade game revolution — Ukrainians started directly playing computer games since they appeared.”

Another paradox is that 80% of worldwide Russian-language gaming content is broadcast from Kyiv, making the Ukrainian capital a major esports hub.

Geeks become rock stars

Streaming is at the heart of the esports revolution. Apart from putting Ukraine on the industry’s map, the live broadcasting has also given a massive popularity boost to top video game players, transforming computer geeks into rock stars.

Platforms like Amazon’s Twitch stream events online to millions of viewers. And high viewership is accompanied by massive amounts of money for star players on top of prize money for winning competitions.

For example, star player Tyler “Ninja” Blevins gets an average of more than 72,000 viewers during competitions

ready to pay \$5 per month. Having access to more than 12 million followers, he wins nets about \$300,000 a month in streaming revenue.

On the one hand, star gamer popularity attracts young people to gaming. But on the other, Kokhanovsky thinks it may harm the industry.

He compared the esports industry to soccer, which both show signs of a financial bubble.

“Some players are overvalued,” he said, referring to soccer players and gamers. When their popularity increases, the huge salary they take is at the expense of the team they belong to.

The teams don’t earn any money when their players stream their victory, collecting funds exclusively from sponsors instead, with which they pay the players.

Zolotarov echoes Kokhanovsky, insisting that players abuse their popularity by monetizing viewership.

“I think there is a very hypocritical attitude from players in terms of monetizing their persona. They take advantage of that, and it’s a kind of abuse. They just use their image and use their fan base to profit from that.”

Zolotarov underlines the need for regulation on that matter.

“If you’re getting contracts from sponsors, you already getting money, and then you open up your Twitch channel and get money out of it too,” he said. “There should be a clause in the contract saying everything you’re doing on Twitch, that’s the money (of the CEO).”

Wild West

Regulating esports is impossible without taking into account the key feature of the games.

In mainstream sports like soccer, parties own teams and stadiums but nobody owns the sport itself. In esports, publishers own the games, which gives them total control of league regulations.

And while some experts do call for governing bodies to regulate the games, Zolotarov laughed at the idea. For him, esports is like the Wild West.

“There are basically no rules,” he said. “Nobody knows how to operate this huge machine with tons of players and billions of dollars involved. Nobody has real solutions, and nobody’s really working on that. It is incredibly difficult to work this out.”

He then referred to the Hearthstone scandal, when heavyweight U.S. gaming company Activision Blizzard suspended a Hongkonger player over a statement supporting pro-democracy protesters in his region in October 2019.

Despite a tournament victory, the player saw his prize money confiscated and was banned from participating in international tournaments for 18 months, a punishment rolled back after an international outcry from players.

Still, publishers’ absolute control over games makes the industry virtually impossible to independently regulate the competitions without their consent.

Match fixing

Betting in esports is essentially the same thing as gambling, except it is a lot harder to monitor.

What makes esports betting different is that gamers place online bets using customised weapons, known as “skins.” They purchase these skins for cash and place bets on esports matches with these skins through an online forum. After a match, one can then exchange the skins for money.

The skins have become a virtual currency like chips in a casino, with rare items sometimes worth thousands of dollars.

Match fixing is also widespread in esports. On Aug. 24, 2019, Australian police arrested six men suspected of fixing games. They face up to ten years in prison if convicted. Police alleged that the men arranged the outcomes of matches during a tournament, and placed bets on their own matches.

Another suspicious case is the iBuyPower and NetCodeGuides teams scandal: back in 2014, iBuyPower was heavily favored to win the match, but lost instead.

The strange strategies of the esports team, which played way under its level, attracted attention at the time of the match.

Texts exchanged between players of both teams finally revealed that the game had been rigged to let NetCodeGuides win, so they could share the money from the bets.

According to U.K.-based lawyer Ian Smith, speaking to the U.K. Guardian newspaper, match fixing follows two patterns: individual players or teams seeing an opportunity to rig a particular outcome of a game and financially back themselves, and higher-level activity, where gambling syndicates bribe players.

In 2016, he estimated that illegal betting in esports could be worth as much as \$2 billion.

In 2017, the ProDota Cup, organized by ProDota Cup, was under suspicion of letting teams fix games, but its' chief executive released a statement saying the team concerned had been obliged to sign contracts leading to heavy fines if match rigging was proven.

Kokhanovskyy, however, does not think it's a big deal. If players are found guilty, the executive suggests simply banning them for life from taking part in tournaments.

Lucrative, unregulated business

Esport is a self-feeding business: publishers own games played in tournaments, players pay to participate in a game they already paid for and viewers pay for a subscription to watch gamers play.

For marketers able to navigate this nascent landscape, the payoff can be huge, and the sharp rise of the industry attracts big business names to the market.

Around 82% of the industry's revenue comes from advertising, sponsorship and media rights, globally generating over \$800 million so far in 2019.

Sponsors like Red Bull, Intel and Samsung are already firmly entrenched in esports, with more big names to come. Its explosive growth has also started catching the eye of big-spending marketers, like Louis Vuitton, who released a collection of outfits and trophies for Riot Games' "League of Legends" on Dec. 10.

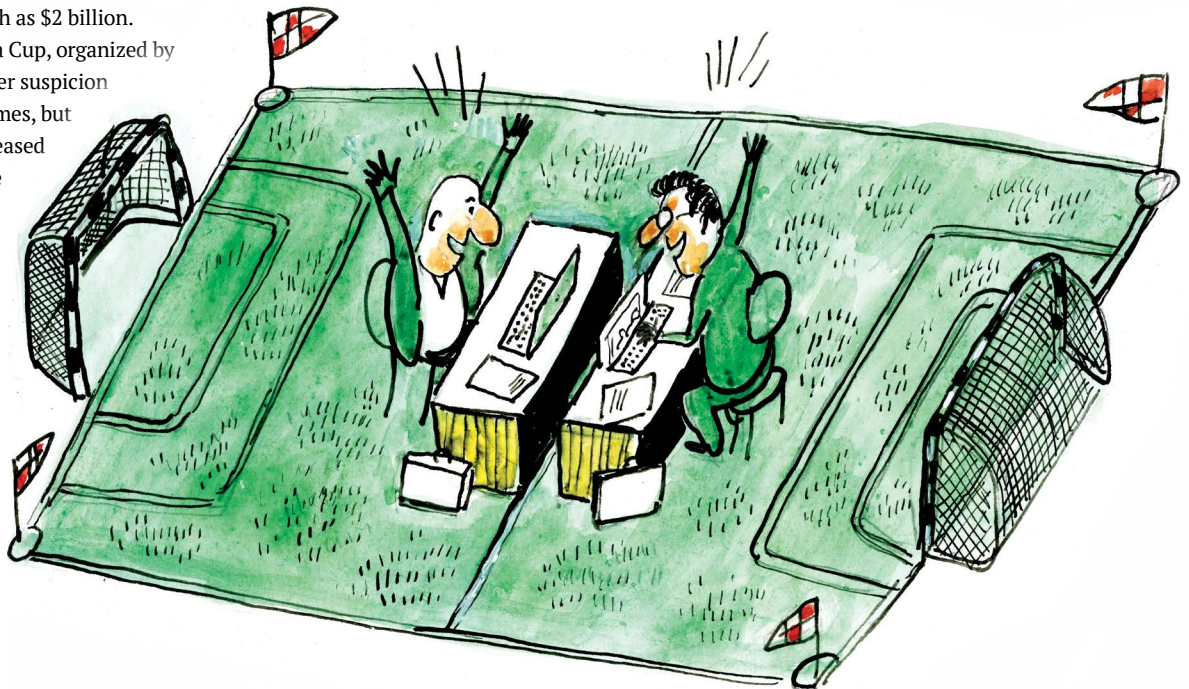
Branding expert Graham Hitchmough believes that around 70% of esports \$650 million revenue comes from brand investment and thinks that alliance is likely to become the norm.

As a result, 2019 is believed to be just the beginning of “a market that will continue to attract brands across all industries,” Newzoo CEO Peter Warman said in a report released on Feb. 12.

Kokhanovskyy sees it as the biggest sport discipline introduced to the world over the last decade. However, despite the serious amounts of money involved, esports is yet to be taken seriously by lawmakers and regulators.

In the words of Zolotarov, as big and promising as it is, “it is still an embryo.” ■

The competitive video game industry is growing so fast that some experts predict it could become the world's number one sport over the next 10 years, even putting soccer out of play.





A humanoid, robot powered by artificial intelligence and named Sofia talks to the media during a press conference in Kyiv on Oct. 11, 2018. Sofia was developed by Hong Kong company Hanson Robotics. Ukrainian firms are also working on AI products, Grammarly and Ring Ukraine are the most vivid examples. (UNIAN)

Ukrainian AI struggles to overcome local, global problems

By **Igor Kossov**
kossov@kyivpost.com

An artificial intelligence, or simply AI, companion can detect a user's emotions and help millions of people suffering from loneliness.

AI can gather business intelligence to help sales specialists work with clients.

A smart, AI-powered proofreading service can learn on the fly and help people become better writers.

All three of these ideas have been developed

or are under development in Ukraine. The country's tech startups — particularly those focused on artificial intelligence — have been spreading their wings and drawing much-needed global attention to the country's tech talent.

Outsourcing companies, which write code for Western clients, may still have the most employees in Ukraine's tech industry. But product companies have surpassed them in

valuation over the past two years, according to DataRoot Labs, a company which helps clients develop AI and big data solutions.

Meanwhile, Ukrainian-made companies like Grammarly and GitLab have achieved the lofty status of “unicorns,” being valued at over \$1 billion. Other firms have attracted tens of millions in investments.

“Although outsource is still dominating the market... my hope is that after the first big success exit stories, that trend will reverse itself and more people with quality fundamentals will take a risk of starting their own business,” said Max Frolov, the co-founder of DataRoot Labs.

Ukraine’s focus on AI is similar to global trends. Today, even tech companies that don’t put out an AI product, often use it to power their core business model.

“There are a lot of opportunities for the creation of products based on artificial intelligence and Big Data both in Ukraine and worldwide,” Volodymyr Kryvko, the managing partner of Chernovetskyi Investment Group, wrote in an email.

Still, Ukraine is hamstrung by local and global challenges.

IT professionals bemoan the country’s unreliable legal system, ambiguous taxation of entrepreneurs, lagging efforts to improve education at public institutions and the lack of venture capital. Globally, investors are growing warier of investing in early startups.

Strength to strength

For all its challenges, Ukraine’s status as a tech center has consistently improved, according to global metrics.

The analytics site Startup Ranking found that Ukraine occupies the 43rd place globally by total number of startups, with 259 companies. In this regard, Ukraine is ahead of Estonia, Latvia, the Czech Republic, Lithuania and Belarus.

StartupBlink, an online startup ecosystem map, found that Ukraine rose by four positions to 31st place, compared to 2018. Meanwhile, Kyiv has jumped 29 places up to 34th position, coming in ahead of Melbourne, Denver, Shanghai and Dublin.

The Tech Ecosystems guide found that, in 2018, \$290 million was invested in Ukrainian startups, compared to \$265 million in 2017 and \$268 million for the 2014–2016 period. The guide forecasts that, by 2025, the Ukrainian IT industry will export \$8.4 billion worth of products and services.

“During this year, we have had an opportunity to get several signals which are very important for the market – these are investment rounds of Ajax, Murka, Grammarly and people.ai,” Kryvko wrote. “Ukrainian technology companies continue to grow and attract more and more attention from investors and consumers outside Ukraine.”

Grammarly, which produced an AI-driven writing aid, attracted \$90 million in October. Ajax Systems, which makes a highly regarded electronic security system, got \$10 million from Horizon Capital in March. Murka, a social casino

developer, was acquired by the giant Blackstone Group in March. And people.ai, which uses an AI platform to boost the effectiveness of salespeople, attracted \$60 million in May and is now valued at \$500 million.

According to Dmitry Kozlovsky, the general director of Valtech Ukraine, the country is 11th among 50 countries with the best developers and 6th in the world in best programmer ratings on the TopCoder ranking.

Silicon ceiling

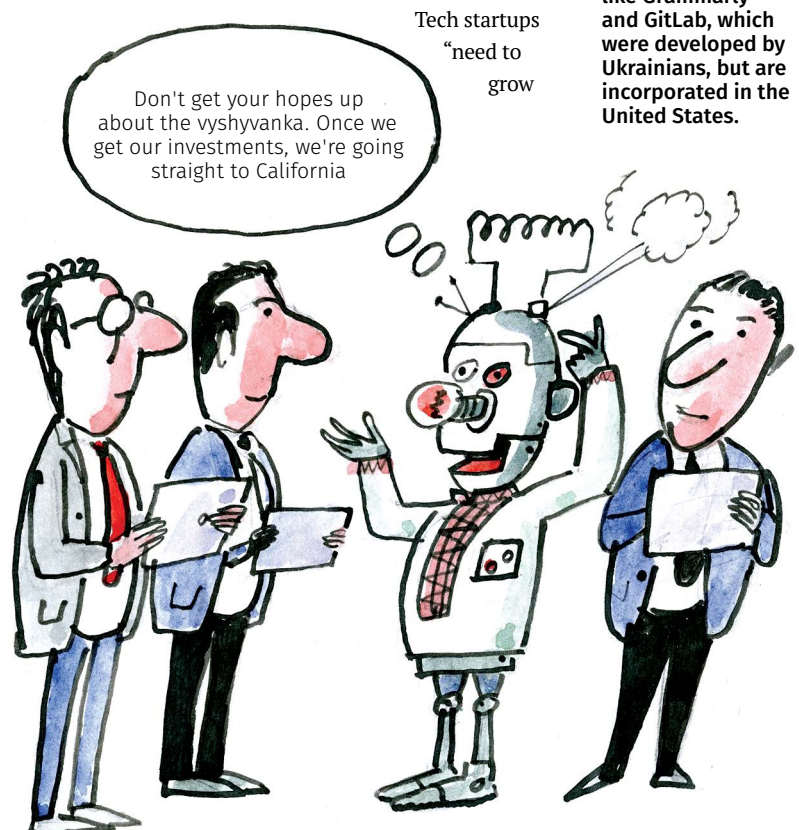
Still, Ukraine is unlikely to break into the big boys’ club. The only serious startup ecosystems are in a handful of places in the world, said Alexander Soroka, the CEO of Startup.Network, a professional network for participants on the venture market.

“Our problem is not with startups,” said Soroka. “Our startups are no dumber and no worse (than in other countries). The problem for the whole world is with business venture (capital) – it exists only in a handful of countries.”

Soroka said the world has two major tech startup ecosystems – the U.S., with half of the world’s unicorns, and China, with a quarter of them. Next, small ecosystems in England and India have 5% and 4% of unicorns, respectively. Then the very small ecosystems, France, Germany and Israel have 2%, 2%, and 1%, respectively.

Other countries’ ecosystems are negligible by comparison, he said. Even Western European countries are far from the U.S. in tech startup development because of slower decision making and a smaller appetite for risk. Ukraine’s embryonic ecosystem is even farther behind.

Most Ukrainian innovators move abroad as soon as they find recognition because, they say, of poor legal frameworks for the protection of intellectual property and few investment opportunities. This includes startups like Grammarly and GitLab, which were developed by Ukrainians, but are incorporated in the United States.



in fertile soil that is constantly watered with startup investment rounds,” said Soroka. “And ours is starting from a very early stage, with angel investors. And finding them is very challenging, not to mention later rounds.”

Insufficient protection of private investments, raiders risks and a lack of intellectual property protections all round out the list of drawbacks.

“Early stage funding is extremely scarce and entrepreneurs have to prove what they have like never before.”

— Yulia Sychikova, DataRoot Labs COO

Global shortage

The problems aren’t exclusively Ukrainian. Globally, the world has seen a decrease in venture activity and a tendency to invest in companies that already have a finished product and, in some cases, revenue, according to DataRoot Labs COO Yulia Sychikova. IT professionals told the Kyiv Post that it’s getting increasingly difficult to launch one’s own company.

“Compared to foreign markets (Israel), we have extremely few exits. Many startup projects do not even go through the launch phase, not to mention attracting investors,” said Valtech’s Kozlovskiy

He says this indicates an “underdeveloped IT ecosystem” and a lack of incentives in the country.

The companies that do make it usually incorporate outside Ukraine to be closer to their markets and investors and to avoid Ukraine’s dodgy courts and bureaucracy.

Early stage financing is very hard to come by, said Sychikova. While Ukraine had a few attempts at launching incubators, most of them closed. This is in line with global trends.

“Over the past few years, there has been a shift — most of the funds shifted to investing in late seeds and Series A, when the companies already have traction, products or revenue.”

Seed funding refers to initial capital that an investor puts into a startup. In late seed funding, the enterprise typically has already figured out its market and product. Series A refers to the first round of venture capital. At this point the company has a product, possibly a revenue stream and wants to grow and expand.

Seed funding has been drying up globally, she added, as investing in tech is even more risky. Most venture capital funds have been unprofitable historically. Ukrainian teams that are passionate about products turn to other countries for acceleration, including Germany, Estonia or Chile.

“Early stage funding is extremely scarce and entrepreneurs have to prove what they have like never before,” she said.

Moreover, Ukraine lacks the legal structure to accommodate venture capital funds, according to Alexander Borynyakov, a deputy minister for digital transformation.

A lack of experience or workable ideas is the other major limiting factor. While some Ukrainian startups have demonstrated that they can overcome all the other challenges set before them with a good enough product, their experiences are characteristically rare.

“In my opinion, the main obstacles to develop newly created companies are lack of experience of the founders and unviability of the idea,” Kryvko wrote. “In particular, this is what venture investors are for.”

Some help is at hand. On Dec. 2, the Ukrainian Startup Fund (USF), which has a total budget of \$18 million, began accepting grant applications from local tech startups. The state-owned fund will provide selected startups with grants ranging from \$25,000 to \$75,000 to boost development.

Launched by the Cabinet of Ministers, the USF provides pre-seed and seed funding for Ukrainian tech firms, meaning that the money will go to early-stage startups that only have prototypes of future products and need capital to develop their products further. Every startup has to have an element of tech and can be on the periphery of other industries and IT, including adtech, fintech, internet of things and big data. The startups also have to be registered in Ukraine with at least 50% Ukrainian ownership.

Setting up abroad

For most tech startups, there is little chance that they will register and stay in Ukraine.

Most companies want to go where the markets and the investors are, and they are not in Ukraine. The local market for tech products and services is very small by comparison to the United States.

Even in the U.S., most startups and investors only recognize 2 jurisdictions — Delaware and California, with 90% of U.S. startups registered in Delaware due to its preferential taxes and laws that protect investments. Other jurisdictions and countries do not suit most tech companies, said Soroka.

Sychikova agreed, saying that companies incorporate in places with good legal ecosystems where they feel more protected than in Ukraine.

Most have a Ukrainian entity as well, drawing on the skill and comparatively low cost of Ukrainian engineers. These back offices typically do the work that costs the company money, while revenue is made elsewhere.

Still, Soroka does not think that this is a bad thing. The fact that Ukrainian teams are developing projects here is a positive for the country.

“Development takes place here, the back office is here,” he said. “If the money is flowing, if people are paying income taxes, then everything is fine.” ■



Ukrainians dressed like fantasy, mystical and video game heroes attend a festival in Kyiv on Sept. 21, 2019. As gaming is becoming increasingly mainstream, the video game industry is booming in Ukraine. However, the weak intellectual property rights policy harms its meteoric rise. (Volodymyr Petrov)

Weak intellectual property protections hamper Ukraine's video game industry

By **Alexander Query**
maillard.query@gmail.com

People love video games — after all, they are ready to pay billions of dollars annually for this entertainment.

In 2018 alone, the global gaming industry generated \$43 billion in revenues. Around 14 million Ukrainians chipped in, spending \$160 million on games and gaming hardware.

Ukrainians, however, are not only playing games — they are creating them, too.

Over the last several years, more than 30 new game development companies have appeared in Ukraine, and some 20,000 people here actually work on developing video games for computers and gaming consoles like Sony

PlayStation and Microsoft Xbox.

Some of the games made in Ukraine, in fact, have earned huge popularity in the West. This includes a shooter set in Chernobyl, “S.T.A.L.K.E.R.,” and the strategy game “Cossacks,” both created by Ukrainian GSC Game World. Ukrainians have also been developing the video game series “Metro 2033.”

International developers like French Ubisoft, German Crytek and Belarusian Wargaming are tapping into Ukraine's talent, too. They have opened offices here.

Taking all of this into account, research companies estimate that the gaming market

will only continue to grow in terms of revenue and the number of players, especially in the popular mobile sector, where games are developed for smartphones and tablets.

But there is a problem that holds Ukraine's gaming industry back from faster growth: poor protection of intellectual property, the lifeblood of this industry.

High-tech work of art

Like all the tech companies, game design firms struggle against piracy and infringements of intellectual property rights by competitors.

But the challenge of protecting intellectual property rights in game development lies in the complexity of video games — there is more to them than meets the eye.

“An idea has the same right to be defended as a house or a piece of land.”

— Tymofiy Mylovanov,
Ukraine's economy minister

Julia Semeni, a lawyer at the Asters law firm, points out that a typical game is a combination of raw programming code and visual art. So game developers must protect not only the code, but also images, sounds, texts and scripts.

“Any game involves various intellectual properties, software first of all, but also characters, game environments and other graphics,” Semeni told the Kyiv Post. Copying any of them may potentially be copyright infringement.

Concept artist and game designer Jane Lysa agrees. She told the Kyiv Post that teaming up with a lawyer is a necessity when it comes to creating characters and dealing with potential employers in this industry.

For Lysa, intellectual property theft has been “a common practice” in the Ukrainian gaming industry.

“Our judicial system doesn't care that much about intellectual property rights,” she said.

The best way artists can protect themselves so far is to use their celebrity status to warn others about dishonest companies, she thinks. But for that to work, the artists should be famous, which is not the case for the majority of people in this profession.

Copyright respect

To protect intellectual property, Lysa urges Ukraine's government to involve specialized lawyers in creating proper laws, as the biggest challenge is to ensure efficient protection of copyrights in court.

The difficult part is that visual art is something that can be accidentally copied — for example, when two separate game designers are inspired by the same science fiction novel. The laws will have to foresee such cases. If they are not addressed properly, this could severely restrict competition.

“Different people from different parts of the planet can

come up with a similar idea,” Lysa said. “Everybody has the same visual library.”

Asters' Semeni thinks that improving intellectual property rights protection in Ukraine will require complex and systematic efforts. It's not just about asking lawyers to prepare laws. It starts with proper education, an evaluation of people working in the sector and even judicial reform.

A complex issue

Although the community of lawyers is working to protect business and create favorable case law, the experience of judges need to improve, too.

There have been considerable efforts to launch a specialized intellectual property court and it is crucial for this process to be completed, Semeni said.

And in July 2019, the Ukraine Alliance Against Counterfeiting and Piracy (UAACP) started doing just that. It released a report advocating for the creation of the Intellectual Property Court as a top priority. It is demanding that the selection of judges be completed by the end of 2019.

But protecting intellectual property isn't just a local cause. It's an international matter: the EU Ukraine Association Agreement contains intellectual property rights norms, and Ukraine has to align its legislation with them in order to develop trade with the EU.

During a meeting with the UAACP in July 2019, EU representatives complained about the slow implementation of Ukraine's commitments and said the country needs to speed up.

The EU representatives also emphasized “that intellectual property rights infringements result in severe losses to the Ukrainian economy, decreasing investment and government revenues, and killing jobs in the creative and innovative industries.”

Semeni, in turn, said that intellectual property protection is specifically important for startups, as they form the country's most crucial asset. One cannot expect serious investments without proof of efforts to protect intellectual property, she added.

At the recent Kyiv Post Tiger Conference, held in Kyiv on Dec. 10, Economy Minister Tymofiy Mylovanov concurred.

Mylovanov said that Ukrainians must start respecting intellectual property rights.

“We watch pirated movies, we listen to pirated music and we think it's the norm,” Mylovanov said. “Even the government has pirated software, downloaded from Russian websites.”

The minister said he thinks Ukrainians should change their mentality.

“Culturally, we need to get serious in enforcing (respect of the work of others),” he said. “An idea has the same right to be defended as a house or a piece of land.”

In the video game industry, Lysa insists that ethics are critical for growth: “As soon as our ethics level goes up, everything will go up, and we will thrive even more.” ■



Join our CORPORATE CLUB **Kyiv Post** UKRAINE'S GLOBAL VOICE

Subscribe to the Kyiv Post and have fresh issues delivered weekly to your door.

- Glossy paper, full color, 16-24 pages
- Weekly delivery Friday through Monday
- Quarterly & annual supplements
- Exclusive analytics, investigations, projects
- Business reviews, expert opinions
- City buzz, events, lifestyle

OUR SUPPORTERS:



Contact us at 044-591-7788, subscribe@kyivpost.com #kyivpostclub

KADORR Group

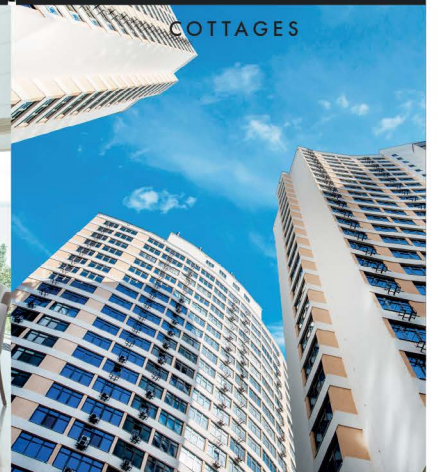


SHOPPING MALL

FITNESS & SPA

RESTAURANTS

RESIDENTIAL COMPLEXES



HOTEL

COTTAGES

B U S I N E S S W I T H A H U M A N F A C E
A N D G O D ' S B L E S S I N G !