



## **Early Homo Sapiens, Startups, Persistence Hunting & Congress**

By StartUpAdmin on October 13, 2011



I work with a lot of startup companies and I hear a frequent cry, “We need money!” They need to [raise capital](#) in order to get their businesses off the ground or to keep their businesses going. These are businesses that either employ people and want to hire more, or make their first hire, but they have to overcome the obstacle of raising money.

Why can't they raise the money?

Well, for a lot of startups, it is not that they can't raise the money, it is that it is hard to raise the money. Sometimes very hard. It is like the persistence hunting of early Homo sapiens. To survive, early Homo sapiens had to run, nonstop, for hours and hours and hours on end (10 to 12 hours or more nonstop), until the antelope or the gazelle they were chasing finally, out of heat exhaustion, stopped to pant again and could no longer move, and our ancestors could finally spear it and eat.

The furred creatures of our ancestral homelands were faster and stronger than us, for sure. But what did we have that they didn't? Well, we could run AND pant (sweat) at the same time. Conveniently, our bodies are like one big tongue, whereas the furred creatures have to stop and pant frequently to cool off.



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Persistence hunting is what allowed us to survive. Homo sapiens sure look weak when naked next to a lion or a tiger. If you were an odds-maker at the time when they first arrived on the scene, I am not sure you would have bet on the Homo sapiens to dominate the globe. But we have. And the reason is our physiological predisposition towards persistence. It is no wonder we wound up spreading out all over the globe rapidly (in geologic terms). When you are running 10 to 12 hours at a time, chasing food, you can cover a lot of ground!

Alas, it is the same with many startups today.

## Hunting For Funds

You can't tell the world you are raising money. You can't advertise for funds. You can't Tweet about it, post it on Facebook, or announce it on LinkedIn. That would violate federal law. You might even get sanctioned by the Securities and Exchange Commission (SEC) if you use Facebook and Twitter to solicit for funds, even if you never actually collect anything. You can read it right on the [SEC website](#).

How can you raise money in compliance with federal law? You have to work friend to friend, contact to contact, keep running, keep running, don't stop. It helps of course to tap into preexisting networks. Get admitted to Ycombinator, or TechStars, or similar program. What will help you succeed?

- You work your contacts hard enough and long enough.
- Your team's bio has the right "cred."
- You are attacking a big enough market.
- Your product idea or beta is exciting enough.

In caveman terms, it's a mastodon of an endeavor. You might say, "This is all fine and good. It is how it should be." But I challenge you to ask some hard questions that may just change your perception of how startup money is raised in America.

- Why make it more difficult for startups to raise money?
- Why make companies that are ready and willing to employ people (or that want to continue to employ the people they have) run such a gauntlet because of federal and state securities laws?

My answer to these questions is "Repeal Law." I know—it is counterintuitive if you are a believer in the power of "Law" to change society for the good to say—that the way to



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change society for the good is not to enact new law, but to repeal laws that we have that are no good. But that is in fact what I believe to be part of the answer.

## **An Appeal to Lawmakers**

With the economy desperately needing to add new businesses, and with them new jobs, I urge those in Congress to lift the ban on general solicitation. Allow startups to advertise for funds. These are companies that are hiring! They are employing people! But they are hung up by rules you have allowed to come into being. Rules that were written to protect the money, not the entrepreneur. Rules that were written to calcify and ossify the social system (Marx's words I know)—not allow its disruption. None other than Seattle's own Eric Koester, Founder of Zaarly, testified before Congress that Congress ought to remove the ban. Eric testified as follows:

"More specifically, I encourage the removal of the Ban on General Solicitations, which limits the ability of private businesses to locate and identify prospective investors."

### **[Eric Koester's entire testimony](#)**

Happily, and coincidentally, a bill has been introduced in the House, HR 2940, which would do just this. It would require the SEC to repeal the prohibition on general solicitation within 90 days of the bill's passage. The bill is short—less than 1 page (just the right length), and its operative provision states as follows:

*Not later than 90 days after the date of the enactment of this Act, the Securities and Exchange Commission shall revise its rules issued in section 230.506 of title 17, Code of Federal Regulations, to provide that the prohibition against general solicitation or general advertising contained in section 230.502(c) of such title shall not apply to offers and sales of securities made pursuant to section 230.506, provided that all purchasers of the securities are accredited investors.*

This bill deserves the support of the whole startup community, and we ought to also call the bill's sponsor and see if he will favor a repeal of Sections 413 and 926 of the Dodd-Frank Act, which also made fund-raising for startups needlessly more difficult and burdensome.

## **An Even Hunting Ground**

Oddly enough—or perhaps not so oddly given our amusement-centric culture—our regulatory landscape favors frivolity. It allows raising money for kicks (Kickstarter), or to



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support an artist—say, like Justin Bieber. Justin Bieber can Twitter and Facebook all day long, trying to sell you albums. But if you are a company that wants to sell a stake of itself to raise money to employ people—things are much more difficult.

Our regulatory agencies are not in favor of startups disruptive technologies. They continue to press for laws that will make it harder for startups to raise money. The most recent proposed “bad actor” regulations are another example of a huge regulatory burden about to be imposed on the startup community. Why? Who knows, these rules ought not to be enacted and the underlying law ought to be repealed.

Congress, you have it within your power to change the landscape and significantly improve it for the startup community. Repeal the ban on general solicitation. Stop the need for all of this ridiculous running; it’s so 250,000 years ago.

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