



## SHOULD WE TAX THE INTERNET?

***By Romain Bosc and Colin Blackman***

*Is the widespread idea that Internet companies are “free riders” in the digital economy always legitimate or demonstrable? How can we assess this assumption and should we interpret any attempt to tax the Internet in the same way? This CEPS Digital Forum seminar chaired by Colin Blackman analysed the different attempts to “tax the Internet”, with a special focus on ancillary copyright as an instrument to regulate the digital ecosystem for press and search services.*

With the recent crackdown on multinational companies operating unethical tax arrangements and tax avoidance strategies, calls for a large-scale fiscal plan resonates loud and clear. It has been the subject of fierce debate for more than a decade. The digital economy makes no exception. However what is commonly referred to as a “Google tax” reflects in fact various options being discussed or action plans already implemented at different levels, by many institutional actors as well as affecting many other companies. This ambiguity obstructs the debate and may lead to misleading interpretations or inadequate remedies.

National governments are responding individually in a number of ways. For instance, the UK has announced a 25% tax on foreign companies’ profits derived from economic activity in the UK. While this would affect all foreign companies, it would be felt particularly by those operating in the digital economy. Some countries (e.g. Germany, Spain) have introduced “ancillary copyright levies”, so that news aggregators would have to pay copyright fees for news search results.

Professor Björn Westberg (Jönköping International Business School) sees no basis for different rules to be applied to the digital economy, as it is rather a matter of general compliance and good practice at large. Instead, the digital economy should be treated equally, and he argues that no special tax is needed or is advisable. A European solution, along the lines of the OECD’s Action Plan – the so-called Base Erosion and Profit Shifting (BEPS) project – would be, in his view, the right way forward to implement clear rules on a sound basis. Professor Westberg cautions against the risk of double taxation or additional hidden taxes triggering a loss of consumption and business.

As a former journalist, Francine Cunningham (European Newspaper Publishers Association) acknowledged the potential added value of the Internet to help journalists to better prepare themselves, to circulate the information and to reach a larger audience. However, she wonders how to monetize access to information in order to remunerate publishers. She also insists on the crucial role and responsibility of media in a democracy, arguing that civic engagement and quality of content are at stake. She defends the idea of implementing fees for using European “intellectual works”, alleging that both the VAT system and copyright rules are maladapted to the digitization of press services. Hence, she claims there is no reason for treating the Internet as an extra world free of concrete rules, especially given some intermediaries are “free riding” and create loss for several media companies, most of them being SMEs employing local workers.

Obviously, as Dr. Till Kreutzer (iRights.info) points out, an ancillary copyright is not a tax collected by the state to be spent to serve the public interest or to better protect the authors. Rather, it is a reallocation of profits between players realized through private law. In fact, he refutes such a need as there is no market failure, arguing that search and content providers’ services are complementary, not competitive. Conversely, it would lead to lose-lose situations for both ISPs and publishers, especially affecting small players and massively obstructing the rights to communicate, and by extension the freedom of speech. While newspapers and other traditional media organizations argue in the language of piracy, digital media giants and Internet advocates counter with arguments on the value of intermediaries in reducing search costs for consumers, increasing overall news consumption and improving matches between consumers and content.

To address this, a solution could be to implement monitoring mechanisms between both parties, allowing to the removal of problematic contents, as suggested by Julia Reda (MEP) who recently released a draft report for the European Parliament evaluating the 2001 copyright directive. She sees the ancillary copyright law as a counter-productive and anti-competitive instrument that jeopardizes European online innovation. More surprisingly, calls for ancillary copyright levies are coinciding with the European Commission’s investigation of allegations of antitrust violations by Google, as well as with its plan to avoid burdensome regulations. Another solution is to introduce strong users’ rights and pro-competition rules, notably by adopting the General Data Protection Regulation and net neutrality provisions to make sure new start-ups and big players could benefit from the same level playing field. She pledges for a more harmonized and coherent legal landscape, instead of introducing specific and targeted levies. Beyond this, she is in favour of implementing common VAT rates over Europe in order to cope with tax competition between member states, but also with timely and costly

proceedings that are particularly felt by SMEs, especially through the new Mini One-Stop-Shop (MOSS) system.

With regard to the news aggregators and publishers' disenchantment, the Reuters Institute Digital News published a [report](#) (2014) highlighting that only 7% of Internet users go through a news aggregator to reach a specific newspaper whereas 20% used search engines through a variety of queries and key words. Looking closer, the reality seems more complex and fragmented across Europe. For instance, in Italy Google News is accessed by 25% of weekly online news users and in Germany by 11% compared with only 2% in Finland and 5% in the UK. Even more surprisingly, in breaking down different types of search, the data reveal that search queries help users to get quickly to their favourite brands, with 56% of those queries relating to a particular website.

Finally, as we are observing a shift in the way the information is transmitted, notably given the uptake of smartphones and the emergence of social media or disruptive applications, media companies are rethinking their strategies to better-fit new platforms and harness the new way of consuming contents.

With the new Commissioner to the Digital Economy and Society, Gunther Oettinger, taking over the challenge of reforming European copyright law, the aim is to replace the current patchwork of national laws that create uncertainty for right-holders, users and intermediaries. On the European Parliament's side, MEP Julia Reda is pushing for a "Digital Agenda Intergroup" in order to adopt a more horizontal and integrated approach over the wide range of issues that are split among several committees, whereas the digital agenda has become transversal and touches upon almost every policy area.

More broadly, some experts have called for evidence-based policies rather than giving in to feelings and fears. Taxing the Internet in a ring-fencing way by implementing specific rules to the digital economy only would in any case discourage the use of the Internet and the development of online business, notably by hindering innovation and diverting consumption from digital goods and online services. It would simply kill the scope for a Digital Single Market in the long run.