BUSINESSEUROPE

THE DIRECTOR GENERAL

Mr. Hartwig Löger
President of the ECOFIN-Council
Federal Minister of Finance
Johannesgasse 5,
1010, Wien
AUSTRIA

30 November

Dear Minister Löger,

In view of the ongoing debate on digital taxation at the Economic and Financial Affairs Council, we would like to express our concerns regarding the European Commission's proposal for a Digital Services Tax (DST).

Today's on-going digitalisation has the potential to transform our everyday-lives, significantly improve our standards of living, reduce costs and create many jobs. Ensuring that European companies can generate the technical know-how to attract skilled employees and build their businesses to become global leaders must be a priority for the EU. Removing the remaining barriers of the Digital Single Market could add up to €400 billion per year to the European economy. We also believe that developing an efficient and fair tax framework that is embedded in a competitive business environment to support the take-up and innovation of digital technologies for the whole economy and society is essential.

We welcome the European Commission's efforts to contribute to finding a global solution to issues around digital taxation. Only through a global consensus can we hope to reform the global tax system in a coherent and lasting way, without risking a competitive disadvantage for European companies. We encourage the European Commission and the Member States to intensify discussions at the OECD in view of the final report expected in 2020.

However, we are concerned that the European Commission's proposal for a short-term solution for a Digital Services Tax breaks with the international convention of taxing company profits, not revenue, and thus risks increasing double taxation of companies as well as damaging our competitiveness, jobs and investment if applied unilaterally in the EU. In particular, the Commission's argument that digital companies have an average effective tax rate half that of the traditional economy in the EU does not stand up to scrutiny.

More specifically, the European Commission's identification of a distortion between the taxation of the profits of digital and non-digital businesses, has been refuted by the author of the PwC/ZEW-study on which the European Commission's analysis is based. More recently, a report from Copenhagen Economics, a well-respected economics consultancy extensively used by the European Commission, suggests that digital companies may actually pay more taxes compared to their traditional counterparts.

AV. DE CORTENBERGH 168
BE-1000 BRUSSELS
BELGIUM
VAT BE 863 418 279

BUSINESSEUROPE a.i.s.b.l.

WWW.BUSINESSEUROPE.EU
Follow us on Twitter @BUSINESSEUROPE

TEL +32(0)2 237 65 11
FAX +32(0)2 231 14 45
E-MAIL: main@businesseurope.eu
EU Transparency register 3978240953-79

BUSINESSEUROPE

Given the importance of this justification for the Commission in bringing forward the DST, we believe it is essential that the European Commission revisits its calculations regarding the average effective tax rate of digital companies and how it differs from other recent research. This analysis should be supported by robust public evidence, taking into account both competitiveness impacts, particularly for exporters, both at member state level and the EU-economy as a whole. Recent changes in global taxation rules, such as the implementation of BEPS agreements and the US tax reform, must be included and analyzed. The impact on the Digital Single Market and the situation for start-ups are of vital importance.

While the clear majority of our members believe that by putting in place a DST ahead of a global agreement, the EU may actually hinder progress at global level, some believe a DST is a way to avoid a fragmented EU-approach and can be seen as a way to encourage an international consensus. By unilaterally applying a destination-based tax, relying on the taxation of revenue and not profits, the EU may face retaliatory measures from third countries with large consumer bases. A recent report by the Centre for Economic Studies (CES) and the Institute for Economic Research (IFO) has warned that imposing a destination-based digital tax on revenue unilaterally 'may intensify a trade war with the US'. More recently, a letter from the chairman of the US Senate Finance Committee raised concerns that the proposed tax could 'create a significant new transatlantic trade barrier'.

The Commission's proposal for a DST may thus endanger the Commission's objective to grasp the full potential of the Digital Single Market, with the risk of hindering progress at the OECD, which will already in 2019 present another report on the matter and will issue a final report in 2020. We believe the EU should allow the OECD a reasonable opportunity to reach global agreement. A so-called 'sunrise' clause whereby the DST would only take effect if a global agreement is not found by the OECD is preferable to taking immediate action, if the Council decides to proceed on this issue. However, we believe that before reaching any final agreement the European Commission should in parallel, to its joint and continued efforts with the OECD, undertake a thorough analysis with a view to identifying ways forward for the EU to address any clearly identified distortions in the taxation of the profits of digital and non-digital businesses, without undermining the competitiveness of EU industry. One of the objectives, while respecting the sole competence of Member States in the field of taxation, must be to avoid any unilateral action by Member States.

We hope the Council will take these considerations in hand and we remain at your disposal if we can be of further assistance.

Yours sincerely,

Markus J. Beyrer