



**Ecommerce Europe
Rue d'Arlon, 69-71
1040 Brussels
Belgium**

Brussels, 3 September 2018

Re: EU Proposal to introduce a Digital Services Tax

Dear Minister,

In view of the Informal Meeting of Economic and Financial Affairs Ministers on 7-8 September, we are writing to you regarding the European Commission's proposals on the taxation of the digital economy and, in particular, in respect of the proposal to introduce a 3% digital services tax on revenues resulting from certain digital services (hereafter "DST").

Through its 20 national e-commerce associations, Ecommerce Europe represents the interests of more than 75,000 companies selling goods and/or services online to consumers in Europe. Our mission is to strengthen and foster e-commerce in Europe at all level, in order to make it easier for online merchants to sell to consumers in the European Union, with a particular focus on SMEs, for which it is more complicated to sell cross-border.

First of all, Ecommerce Europe supports the EU's ambition to take a leading role in the current debate on taxation of the Digital Economy, in order to achieve an international consensus and a long-term and coordinated international solution. However, we believe that the EU DST proposal will make this objective harder to achieve and we kindly request that you carefully consider the problems this proposal will cause in its current design.

We therefore submit that, if the EU DST proposal is pursued, at a minimum, it should be made less distortive by proposing the following amendments:

- 1) The proposal should introduce operating profit margin gateways to reflect different operating margins of different business models and different companies within sectors. This may also help to create a bridge to the longer-term solution pursued at OECD level.
- 2) The EU DST proposal should enable full tax credits (or at least deductions) so that European companies that already pay existing taxes can offset those (so not additive).
- 3) The EU DST proposal should include an explicit sunset clause in recognition to the interim nature of the proposed DST on the way to a new international solution

In this context, and to make a constructive contribution to the ongoing discussions in Council, we provide you in appendix with proposed alternative wording on some of the articles of the Commission's DST proposal.

We look forward to a constructive discussion and hope that you will remain open to the opinions of the wider e-commerce sector in this matter. This is a rapidly evolving sector, which can and does make a major contribution to the productivity of small businesses. We recognize the importance of an agreed reform of



corporate taxation and are committed to contribute in the OECD process. We fear however that hasty changes could have a serious impact on its growth, and also on jobs and innovation in Europe.

We look forward to continuing constructive discussions to ensure that companies will be taxed in a fair and non-discriminatory way.

Yours sincerely,

Marlene ten Ham
Secretary General

A handwritten signature in blue ink, appearing to be 'Marlene ten Ham', written over a faint, light blue circular watermark or background.



Appendix 1 – COM(2018)148 final – Proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services - Proposed amendments

Article 4 – Taxable Person	
<p>1. 'Taxable person', with respect to a tax period, shall mean an entity meeting both of the following conditions:</p> <p>(a) the total amount of worldwide revenues reported by the entity for the relevant financial year exceeds EUR 750 000 000;</p> <p>(b) the total amount of taxable revenues obtained by the entity within the Union during the relevant financial year exceeds EUR 50 000 000</p>	<p>1. 'Taxable person', with respect to a tax period, shall mean an entity meeting both of the following conditions:</p> <p>(a) the operating profit margin of the consolidated group for financial accounting purposes of which the entity is a part exceeds [X%]; and</p> <p>(b) the total amount of taxable revenues obtained by the entity within the Union during the relevant financial year exceeds EUR 50 000 000.</p> <p>Operating profit margin is calculated as follows by reference to figures included within the consolidated group's published financial statements for the tax period:</p> <p><u>Worldwide group EBIT</u></p> <p>Worldwide group revenues and worldwide group EBIT are the amounts included in the group's consolidated financial statements for the tax period. A taxpayer may elect to perform the calculation by reference to a reportable segment only, as disclosed in its consolidated financial statements in accordance with generally accepted accounting principles, if that segment includes all taxable revenues defined in Article 3 of this Directive.</p>

New Article – Credits/Deductions

Option 1: Credit

“If an entity is subject to corporate income tax on revenues that are also taxable revenues for DST purposes for that entity or an associated entity in the same Member State, a credit for DST will be permitted against the corporate income tax liability. The deduction will be capped at the consolidated group’s corporate income tax liability on those revenues in that Member State.”

Unutilised DST tax credits are carried forward indefinitely and offset against the first available profits in future tax periods.”

Option 2: Deduction

“If an entity is subject to corporate income tax on revenues that are also taxable revenues for DST purposes for that entity or an associated entity in the same Member State, a deduction for DST will be permitted against that entity’s taxable profits for corporate income tax purposes. The deduction will be capped at the consolidated group’s corporate income tax liability on those revenues in that Member State.”



New Article – Sunset clause

“The provisions of this Directive shall be applicable until the Proposal for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence (COM(2018) 147 final) comes into effect or until [31 December 2024], whichever is earliest.”