STATEMENT

E-commerce Industry calls on EU Leaders not to rush a decision on the EU Digital Services Tax Proposal

Ahead of the Coreper meeting of 28 November, which will decide whether or not a political agreement can be reached on the EU DST Proposal at the ECOFIN Council of 4 December, Ecommerce Europe urges EU Member States to take into account the strong technical, economic and legal concerns that the e-commerce industry, other industries and even some Member States have raised on the introduction of such a tax.

More specifically, we call on EU Leaders not to rush a premature decision on the EU DST Proposal at the next ECOFIN Council meeting of 4 December. In our view, the latest compromise text of the Austrian Presidency of the Council[1] - seen by Ecommerce Europe - still fails in addressing important legal and substantive technical issues. These include the disproportionate impact of the proposed measure on low-margin and loss-making companies, but also the contested legal basis used by the European Commission to justify its action. Likewise, some Member States are asking for more substantive technical work on the text and remain particularly concerned, as we are, about the very likely conflicts between the EU DST and international tax treaties.

In that perspective, Ecommerce Europe wants to reaffirm its opposition to unilateral solutions, both at EU and Member States level, and calls on the EU Member States to take into consideration the fact that the OECD is the only appropriate forum to discuss and define how to tax the global economy in a fair and non-discriminatory way. Only an OECD solution will avoid risks of double taxation and any damage to the multilateral order, with potential retaliatory measures from third countries.

Moreover, new elements have been introduced. In particular, a clarification regarding the interaction between the EU DST and national measures. These new elements confirm our concern that the adoption of the EU DST will not prevent EU Member States from maintaining or introducing new digital taxes, as long as they do not have similar features to the EU measure and are not targeted to digital companies only. In our opinion, this seems in contrast with one of the Commission’s justifications behind the EU DST, namely avoiding fragmentation in the EU Single Market.

In addition, while we welcome the fact that the last compromise text gives more attention to the ongoing work of the OECD, supposed to deliver recommendations on a global solution for the taxation of the digital economy in the summer of 2020, we believe the Presidency compromise still fails to address our main concerns on the substance of the proposal. The EU DST will have far-reaching negative consequences for European businesses, specifically SMEs, and ultimately EU consumers, who will essentially carry the burden of the DST.

Ecommerce Europe counts on EU Leaders to ensure that companies will be taxed in a fair and non-discriminatory way. In this perspective, and also in light of better regulation principles, instead of pushing for a political agreement at the next ECOFIN Council, we urge EU Member States to stop and reconsider the EU DST Proposal and firmly push in favor of international efforts at OECD level, in view of the adoption of a structural, long-term and global solution by summer 2020, which Ecommerce Europe and several other stakeholders favor.

[1] Council of the European Union, 14476/18 Proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services - Political agreement, 23 November 2018