

EACA Position on Digital Taxation

The European Association of Communications Agencies (EACA) represents more than 2,500 communications agencies and agency associations from nearly 30 European countries that directly employ more than 120,000 people. EACA members include advertising, media, digital, branding and PR agencies.

Communications agencies play an important role in creating jobs and growth and fostering creativity in Europe. Their activities span over the offline and online world and can take place at local, national and European levels. EACA members are incorporated or have a physical presence in the EU. Their services are subject to national tax.

EACA understands that the Commission's primary intention behind the [two legislative proposals](#) on digital taxation published in April 2018 is to fairly and efficiently tax "digital activities" of companies that do not have a physical presence in the EU but still have large audiences in those countries. We do not believe that the draft Directives proposed by the European Commission aim to cover corporate EACA members. Nevertheless, the current drafts give rise to the following concerns:

- Agencies would be taxed multiple times – both under the current and the new system - for providing one and the same service to their clients, i.e. advertisers (e.g. buying ad space on behalf of their clients). Under the new system, Agencies would be taxed for services that they do not provide (e.g. the placement of an ad).
- Agencies and advertisers would suffer from an increase of media prices, as platforms are likely to pass on the additional taxation costs to them. This would distort competition and counter the initial intention of the proposed measures, namely to tax a digital interface and not the businesses using their services.
- The current tax system would be offset, which would create an uneven level playing field of entities with a physical presence in the EU and those that have a 'digital presence', while threatening to double tax the entities that might fall into both categories.
- The required collection of user data for the purpose of allocating tax revenues risks to substantially intrude into users' privacy, is highly likely to be in conflict with the General Data Protection Regulation (GDPR) and appears disproportionate regarding the additional tax income expected by the Commission.

On the Digital Services Tax:

The current drafting of the [Digital Services Tax Directive](#) seems to indicate that it applies to intermediaries in the supply chain rather than digital media owners. As a result, the digital services tax would be levied on companies which already have a taxable presence in a country by virtue of their business activity (a significant number of employees, office space and associated infrastructure) and already pay full corporate taxes on their profits. We believe that the tax should only apply where there is a misalignment between the place where the profits are taxed and the place where value is created.

On the placing of advertising:

We also feel that the concept of the “placing on a digital interface of advertising” needs clarification. It is our understanding that the Commission aims to capture the act of **selling of ad space by a platform**, rather than **the placing of an advertisement**, which covers buying ad space (from a platform).

Platforms provide an opportunity for ads to be delivered/placed/seen on their sites and are paid for this service. They own ad space and sell it to agencies, advertisers or a number of other third parties. We would assume that the agencies' purchase of advertising space from platforms on behalf of their clients (advertisers) is not “placing on a digital interface of advertising” for the purposes of the legislation. Instead, the selling of ad space is.

For more information or questions, contact:

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