

Position Paper

To the European Commission

Fair taxation of the digital economy

The Games Industry in Sweden is a digital export business with companies based locally employing over 4000 people and an annual revenue over 1,3 billion euro. The industry is fast growing and continuously changing, and in need of a clear framework for taxation, most preferably in the country of establishment.

Sweden as a country and the industry itself would financially be harmed by a new EU-wide digital tax, because games are an export industry where the value is created locally. Also, there is already a consumer based tax framework in place, and it's called VAT.

There is indeed a need to remove existing obstacles and avoid creating new tax barriers to the emergence of new businesses that foster innovation and create jobs. And the Commission rightly underlines that a common solution is needed instead of unilateral measures fragmenting the Digital Single market area.

However, planned corporate taxation policies needs to be evaluated as a part of the European regulatory framework as a whole and its wider impact on digital markets.

The General Data Protection Regulation entering into force in may 2018 and the currently debated ePrivacy frameworks are both likely to significantly decrease the effectiveness of the digital advertisement and sales in the EU. If a levy on revenues generated from digital businesses is introduced at the same time, the cost will increase at the same time, as the effectiveness goes down. Anyone of these regulatory frameworks would have a big impact on the European digital markets already alone. Their combined impact is likely to be world-shaking.

A targeted tax for the digital advertisement combined with new data protection rules would be likely to decrease the ability of the games industry to contribute to boosting digital growth and creating digital jobs. Furthermore, this will make it difficult for game developer studios to continue to provide their content for free and thus it would widen the digital gap between different socio-economic groups in the Union.

Furthermore, on the 14 of March 2017 European Data Protection Supervisor published a statement warning "against any new provision introducing the idea that people can pay with their data the same way as they do with money." [1] Consequently, it is likely that any draft regulation that sees data collection as a taxable activity and thus data as intangible assets is going to collide with data protection regulation.

All in all, introduction of a corporate taxation framework that is based on the location of consumers would be a significant administrative burden and data protection risk, as it would require all digital

businesses to forward the location data of their consumers across the whole value chain. Consequently, the location-based approach should be avoided.

Profit allocation requires a digital ready solution:

Allocating the profit of large multinational groups using the formula apportionment approach based on assets, labour and sales is an Industrial Era approach on a Digital Era problem:

- Game developer studios have very little physical assets, and it doesn't always correlate to where the value is generated.
- Similarly, game development is a hit driven business and thus a single in-house team working with a key IP can be responsible for the vast majority of the value created by a company.
- Furthermore, allocating profits based on sales would seriously unbalance the system in favour of big member states, and skew the profits of digital companies to countries without involvement in the value creation. It is not fair to either the companies, the employees or the member states where they are based and would encourage Member States to maximise the purchase power of their citizens instead of competitiveness of their national industries. As discussed in the following chapter, the current VAT system with 20-25% tax rates automatically leads to a situation, where the country a consumer is located in collects majority of the taxes in a value chain, typically tax revenue from VAT is far more than the corporate tax revenue from business the profit.

The aforementioned problems also apply to Residence tax base with destination tax rate, Unitary tax and Destination-based corporate tax.

EU already has a well working taxation framework for allocating the tax revenue between Member States – the VAT

European VAT and corporate taxation systems should not be seen as separate entities. Instead they should be seen as a unified system, where each of them plays a significant, but different role. The VAT system secures that the sales are taxed in the countries where purchases happen and the corporate taxation system secures that profits are taxed in the countries where the value is created.

In the games industry, the value-chain consists around the creation of the games, and it is already taxed accordingly today. Consequently there is no need for changes in corporate taxation, as tax is already paid based on the location of where the value is created. From this perspective, the current VAT and corporate taxation is already working efficiently and effectively.

In the digital markets, each country where the consumer is located can apply their local VAT percentage to collect taxes. Building a second, country similar layer on the corporate taxation side would significantly change the balance between these two systems. It is important to remember that in all countries VAT revenue is higher than corporate tax revenue and an introduction of a new tax on digital markets would be likely change this balance even more in favour of VAT.

The main challenge in the proposal seems to be how to collect taxes in EU from advertising or search revenue from business-to-business transactions. Instead of building new tax instruments, the challenges should be answered within the current framework. The corporate taxation should stay in regard to the country of the establishment and nothing else.

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About Swedish Games Industry

Swedish Games Industry is a partnership organization that represents the video games industry in the public. The organization consists of the trade organizations Spelplan-ASGD (developers and producers) and ANGI (publishers and distributors). The organisation is based in Stockholm, Sweden.