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Digital economy taxation

EU: Commission presents a study on taxation of digital economy

- After five months of work, the high-level expert group led by former Portuguese Finance Minister Vítor Gaspar presented its **report on taxation of digital economy**. The group's report concluded that **digital economy does not require a separate tax regime**. The report covered taxation issues linked to the digital economy in the broadest sense, looking at indirect (VAT) and direct (corporate) taxation, as well as wider issues on how tax policy can help maximise the opportunities originating in the digital economy.
- Refuting the idea of a special digital economy tax regime, the report nevertheless underlined that there is a need for **adapting the current rules to the digitalisation of the economy**. Considering that digitalisation facilitates cross border activities, the removal of tax barriers and creation of neutral, simplified and **coordinated tax rules**, were highlighted as crucial. It was argued that more radical reforms of the tax system could also be looked at in the longer term, including a destination-based corporation tax.
- The report recalled that **new rules on VAT for digital services will enter into force on 1 January 2015**. Based on the reform, VAT will be charged where the customer is based, rather than where the seller resides. Thanks to the introduction of a one-stop shop mechanism, telecoms, broadcasting and e-services businesses will be able to comply with all of their VAT obligations in all EU Member States from the country of their registration. According to the report, those new rules could be further expanded to include all categories of goods and services provided to consumers.
- On a broader scale, the report recommended that Member States adopt a common position on tax policies, for example in the area of corporate taxation. A coordinated approach would encompass common definition, better monitoring and enforcement.
- The **G20/OECD Base Erosion and Profit Shifting (BEPS) project** was underlined as fundamental to tackling tax avoidance and aggressive tax planning globally. The report also stressed the importance of the **Common Consolidated Corporate Tax Base (CCCTB)** - see IP/11/319 that provides an opportunity for the EU to expand new international standards, while achieving additional simplification within the EU.
- **EU Digital Agenda Commissioner** Neelie Kroes underlined that as the whole economy is going digital, the discussions are no longer about a digital sector but about the economy in general. Kroes welcomed the fact the group's report does not perceive digital as a challenge from a tax perspective, but rather as a motivator for simplification and innovation in the taxation area.
- The Commission stated that it will assess the report and **decide on policy orientations in due course**.

Data protection

EU: European governments weighting changes to draft privacy rules

- Amid concerns that the proposed **overhaul of the EU data protection rules the way data protection authorities (DPAs) would handle complaints**, on 6 June, the **EU Justice and Home Affairs**

ministers will discuss changes to the draft law. The provisions on **one-stop shop principle** remain the most controversial and have been slowing down the negotiations on the dossier.

- The proposal sets that data-protection disputes should be settled by the regulator in the home country of the company facing the complaint. But, according to changes now under discussion, the regulator in the country of the complainant would have powers to try to settle the issue first. Only in case the process fails would the complaint be sent to the regulator in the country the company is based.
- Countries such as **Germany and Austria have voiced concerns with regards to the proposed centralisation**, stating that it would prevent citizens from defending their privacy rights. Instead, the governments have been arguing in favour of a system that would guarantee proximity.
- The **Greek Presidency of the Council of the EU** that chairs the discussions underlined that it wants **all relevant national DPAs to be involved in the decision-making procedure** by the national authority that takes lead on any given case.

EU: Article 29 Working Party welcomes the CJEU ruling on search engines operators

- In a press release from 23 May, the Article 29 Working Party welcomed the recent ruling of the **Court of Justice of the EU (CJEU)** on search engines operators' **responsibilities to take down links to unwanted content**.
- The Party underlined the importance of **wide interpretation of the notion of establishment** in determining the EU Data Protection Directive applicability to search engines.
- The first exchange of views between the EU DPAs will take place at the Party's **plenary meeting of 3-4 June 2014**. The aim of the meeting is to analyse the consequences of the ruling and to identify guidelines in order to build a common approach of EU DPAs on the implementation of the ruling.

EU: Commission re-launches its search for new Data Protection Supervisor

- The European Commission has **renewed its search** for a successor to **Peter Hustinx**, the EU's Data Protection Supervisor and for a successor to **Giovanni Buttarelli**, the Assistant Supervisor.
- It is the second attempt in less than a year to find a replacement for the departing supervisor, who was scheduled to retire on 16 January.
- The Commission expects to submit a list of short-listed candidates to the European Parliament and the national governments in September. A joint decision on the appointment would be taken shortly after, in order for **the successor to take office in October or November**.

EU: Google sets up a system for users' right to be forgotten requests

- As a first step to comply with the CJEU ruling, **Google has launched a service** through which European citizens can submit requests for the links which provide access to what they deem as objectionable content to be taken off search results. Google stated that in implementing the decision, it will **strike balance between privacy rights of the individual with the public's interest in the information**.
- The company confirmed that it has **convened a special committee** whose aim is to create a long-term approach to effectively dealing with the awaited high amounts of requests. **Jimmy Wales**, co-founder of Wikipedia and **Frank La Rue**, the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, are among the members of the advisory committee.
- According to internal sources, Google has received thousands of removal requests since the ruling.
- Google's executive chairman Eric Schmidt stated that the EU had struck the wrong balance between a right to be forgotten and a right to know.

EU: Germany considers creating special cyber courts

- After a landmark court ruling that ordered Google and other search engines to delete links to sensitive personal information of individuals, **Germany is considering the creation of special cyber courts** to protect citizens' privacy.

- The German Interior Ministry commented that they were looking at different ranges of mechanisms to settle disputes in data protection, from cyber courts to a third party arbitration.
- The new courts are expected to take a role of specialist judicial bodies with the powers to decide in disputes between technology companies and individual users. According to the Ministry, the proposed mechanisms would be legally based on the EU's data protection laws.

EU: Presidency's note on transborder data flows

- The **Greek Presidency** published a **note** reflecting the latest developments in negotiations on **transborder information flows** that are included in **Chapter V of the proposed data protection Regulation**.

Internet governance

EU: Commission presents factual guides to the Communication on Internet Policy and Governance

- The European Commission published a series of info-fishes entitled **Internet Policy and Governance in plain language** that contain background explanations on 11 key aspects comprised in the EU's **Communication on Internet Policy and Governance** from February 2014. Each notice defines the issues at stake, the current situation and the Commission's perspective on them.
- The following topics are covered by the info-fiches: **Globalisation of IANA; Globalisation of ICANN; COMPACT principles; Future of Internet Governance Forum; Rights, responsibilities and limits of public authorities; Breaking down silos / strengthening inclusiveness; Future of multi-stakeholder model; Building bridges between technology and policy; Confidence on and in the Internet; Internet and jurisdiction** and **Capacity building**

General

EU: 2014 Digital Scoreboard confirms Commission on track to complete the majority of digital actions

- On 28 May, the **2014 EU Digital Scoreboard** confirmed that the **Commission is on track to complete 95 of its 101 digital actions by 2015**.
- The data has showed that **regular use of the Internet is increasing** (Most improved: Greece, Romania, Ireland, the Czech Republic and Croatia). The best performers were Denmark, Sweden, Netherlands and Luxembourg where over 90% of people use Internet.
- The number of **non-users has decreased**. Nowadays, there are 20% of people in the EU who have never used the Internet. This is a third less than four years ago.
- The remaining challenges concern the Internet use by small businesses for selling online, access to high-speed broadband in Europe's rural areas, and eGovernment use.