

Brussels, November 6, 2017

Open letter to Finance Ministers of EU Member States: New EU VAT e-commerce rules risk not increasing VAT receipts and harming eCommerce in Europe

Dear Ministers of Finance,

Ahead of the “ECOFIN” meeting on the 7th November, **we urge you to allow more time to discuss new provisions to the complex VAT e-commerce proposal. These new provisions will not increase VAT collection or compliance and risk harming eCommerce in Europe** by penalising hundred of thousands of small European sellers.

We strongly support **the important objective of fighting VAT fraud, improving VAT collection and the creation of a true One Stop Shop mechanism at EU level.** We are committed to improving EU legislation in parallel with our collaboration with national authorities and assistance to online sellers.

We are however deeply concerned with how **last minute provisions have been inserted into the Council text without proper impact assessment and without dialogue with stakeholders.** This also appears to be in conflict with the EU’s better regulation principles¹, with existing EU law² and with the ambition of boosting eCommerce in Europe.³ We fear that any disproportionate and rushed provisions in the complex areas of VAT and eCommerce might have serious unintended consequences.

A late amendment to make “electronic interfaces (such as platforms, marketplaces and portals) liable for collecting VAT” on behalf of their business users is worrying.⁴ This provision was not included in the European Commission’s original proposal. The current draft compromise text in fact deems marketplaces to have “received and supplied himself” of goods coming into the EU – turning marketplaces into retailers - or rather active participants in the supply chain. This would force a fundamental change in business models and mean an end to the open marketplace model, which has enabled commerce and growth worldwide.

¹ https://ec.europa.eu/info/better-regulation-guidelines-and-toolbox_en

² The proposed requirement of platforms to proactively monitor users appears to be in conflict with Article 15 Directive 2000/31/EC: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0031:en:HTML>

³ <https://ec.europa.eu/digital-single-market/en/policies/ecommerce>

⁴ <http://data.consilium.europa.eu/doc/document/ST-13840-2017-INIT/en/pdf>

A stakeholder consultation or impact assessment would show that this is not technically feasible and would have unintended consequences. We believe governments should be working with the eCommerce value chain, including marketplaces, to consider how best to ensure VAT collection and compliance and to support and encourage this type of entrepreneurship, rather than penalising it. This rushed proposal has prevented this. The current approach is certain to only re-locate the lack of compliance and possibly even enhance it. More time will allow stakeholders help governments find a better solution for VAT collection.

Marketplace business models do not support the collection of the more than 100 different types of VAT rates across EU Member States. This provision not only risks harming thousands of sellers, by making them mere suppliers to big platforms, but it also risks favouring large marketplaces over smaller rivals. The proposal is likely to benefit online retailers based outside the EU, which do not have warehouses in the bloc as they would be able to ship items to a member state but would not be held liable for collecting VAT.

To sum up, we share the objective of improving VAT collection, including through the proposed "VAT e-commerce package". The package includes several positive new features such as the much needed EU wide portal for online VAT payments (the online 'VAT One Stop Shop') which will begin the process of simplifying rules for small European sellers. **We are ready to work with policymakers to come up with effective solutions to combat VAT fraud, including looking at a role for a number of players in the value chain in helping enforce VAT collection.** We are already working well with customs officials in a number of member states.

We urge you to allow more time to debate new provisions, such as on marketplace liability, by delaying a decision on the eCommerce VAT legislation to allow time for proper impact assessment and consultation. The measures, as they currently stand, will not increase VAT collection or compliance and risk harming eCommerce in Europe by penalising hundred of thousands of small European sellers.

Best regards,

Margreet Lommerts
Secretary General *ad interim*
Ecommerce Europe



Maurits Bruggink
Secretary General
EMOTA



Christian Borggreen
Vice President & Head of Office
Computer & Communications Industry Association



Siada El Ramly
Director General
EDiMA



Patrick Gibbels
Secretary General
European Small Business Alliance



Cecilia Bonefeld-Dahl
Director General
DIGITALEUROPE



Cc.

Mr. Frans Timmermans, First Vice President, European Commission

Mr. Andrus Ansip, Vice President & European Commissioner for Digital Single Market,
European Commission

Mr. Pierre Moscovici, European Commissioner for Economic and Financial Affairs, Taxation
and Customs, European Commission

Ms. Mariya Gabriel, European Commissioner for Digital Economy and Society, European
Commission

Mr. Stephen Quest, Directorate-General for Taxation and Customs Union, European
Commission