Schibsted

February 2019

Taxation of digital activities – Position paper

1 - Key message

Schibsted is a leading European digital media company, with publishing activities in the Nordic countries. It is also one of the world's leading online classified ads businesses, and active in 22 countries as well as an investor in digital growth companies. Schibsted believes that an equal playing field between large global and local European players is of utmost importance for the functioning of digital markets and for the plurality of services offered to European citizens.

Schibsted's main competitors are global players such as Facebook and Google. The current taxation framework fails to capture the profits of global digital business models, resulting in the undertaxation of global digital companies compared to local European businesses. This leads to unfair competition and disfavours national digital businesses. In a broader perspective, the combination of digitisation and globalisation can lead to problems in financing our welfare states.

Schibsted calls for an equal treatment in taxation of global digital companies active in Europe. We however caution against any proposal leading to double taxation of European players that would result in less possibilities to invest in European media content and European digital services.

2 - Background

According to current tax rules, global players can be taxed based on their taxable presence, normally in form of a "permanent establishment (PE)". The PE concept was implemented with traditional business models in mind, and does not catch digital revenues from the global players business models.

Schibsted, as most European-based groups, has limited possibilities to use the same tax planning techniques as the global players. Schibsted has significant physical presence (asset and employees) in several EU Member States, and pays corporate tax based on local profits.

The OECD is trying to find solutions for a more equitable taxation of the digital economy. This is a complicated and complex endeavour as it requires international support of all OECD Member States. Meanwhile, 18 EU countries have taken the initiative to find temporary solutions under the auspices of the EU. As taxation is part of Member States subsidiarity and
requires unanimity among EU Member States, it seems unlikely that the EU will be able to find a common solution. As an alternative, some Member States have now begun to act nationally. In Spain, a bill has already been proposed to Parliament, and France, Italy and Austria have also stated that they are planning to implement national measures. Germany has announced its support to EU solutions or unilateral measures in 2020 if OECD has not yet implemented a global solution.

The unfair competition between global tech-giant and national, European tech-based companies is escalating in nature, as the difference in tax costs impact the financial muscles to fund research and innovation. Therefore it is important to find a solution albeit the complexity of the issue.

3 - A global solution

Schibsted believes in a global comprehensive solution that amends international tax rules and double tax treaties. This would embed the taxation of the digital economy in the general international corporate tax framework and update indicators of a significant economic presence in line with the new digitised business models (e.g., an updated definition of the permanent establishment). The advantages of such a solution would only tax of foreign companies, without imposing higher taxes on national companies. Furthermore, it would not lead to double taxation and would avoid taxation where there is no economic profit. Finally, a global solution would minimise the compliance burden on taxpayers.

OECD has since 2012 worked to address tax challenges of the digital economy/global giants, focusing on a comprehensive global solution and introducing new permanent establishment rule, which would capture businesses with a “digital presence”. The OECD solution would in our mind effectively and fairly identify and value intangible assets and establish their contribution to local value creation and to amend all bilateral tax treaties. We understand that OECD aims to finalise its work by 2020, but it is highly uncertain whether it will be possible to secure sufficient international support for a new solution within this time frame.

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4 - Temporary measures at EU level

In the absence of a global comprehensive solution, Schibsted is in favor of temporary measures at the EU level. The need for short term measures addressing these challenges in a coordinated manner is imminent to safeguard fair competition, and we believe that EU is able to move faster than OECD in this matter. A common solution for EU would imply a fair taxation in a very significant cross-border market. A joint system for taxation of digital revenues throughout EU would decrease the additional administrative burden put on tax paying companies, compared to several domestic tax measures with separate reporting duties.

Since mid-2017, France, Germany, Italy and Spain have pushed for solutions at EU level. The EU Commission published in March 2018 two proposals that would lay down rules relating to the corporate taxation of a significant digital presence:
1. A Council Directive laying down rules establishing a taxable PE in cases where there is a non-physical commercial presence of a digital business? ("significant digital presence"). The proposal is comparable to what is indicated as the preferred solution by OECD, only at EU level. 2. An interim solution, referred to as the Digital Services Tax (DST), which is a turnover tax of 2-5% on digital advertising, the making available to users of multi-sided digital interfaces and the transmission of data collected about users.

Schibsted prefers the first proposal, which bears many of the same elements as the global OECD solution. The main advantages are that the proposal would not affect taxation of local companies, it reduces potential instances of double taxation and avoids taxation where there is no economic profit. According to the proposed Directive, the rules shall apply to all taxpayers subject to corporate tax in one or more Member States. This could level the playing field between European and global players, as the global players often use one EU Member State, e.g. Ireland, as an entrance to tax optimisation in the EU.

Schibsted can also support the second Directive as an interim solution of a DTS, provided that all threats of double taxation are addressed. This would entail crediting corporate tax against already paid DTS or allowing for deductions of the revenue tax against the corporate tax (see annex). The objective of leveling the playing field between global and European businesses will not be met if the DTS effectively increases the tax burden of European businesses.

We also oppose as a matter of principle the taxation of revenue, as it would lead to taxation of companies that are loss-making and would hamper the possibilities for investing in innovation and new services.

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5 - Schibsted´s position

Schibsted is of the opinion that a global digital tax solution is needed and that all measures leading up to such a solution pave the way for a workable system of the global digital market. We caution against national measures that could lead to unequal taxation systems for our various companies and risk introducing double taxation which would hamper our ability innovate and develop our services.

To sum up, Schibsted prefers a unified global or EU-wide solution that ensures no double taxation, no unintentional taxation of start-ups and no other elements that adversely affect equal conditions of competition.
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Schibsted is of the opinion that DTS paid should be credited against corporate tax due in EU (alt 1 below). However, several countries interpret the DTS Directive to only require DTS to be deducted in tax base for corporate tax in EU, implying only limited elimination of double taxation (alt 2 below). This can be illustrated with an example of Corporate A having revenues of 100 and costs of 40.

Alt 1 Alt 2 Revenue 100 100 DTS
(3% of revenues) 3 3 Costs 40 40
Tax base 60 57 Tax (25% of tax
base) 15-3=12 14,25 Total tax cost
15 17,25

If DTS of 3 is credited against corporate taxes, this will leave 12 in payable corporate tax. Corporate A will still have an effective tax cost of 15 (3+12). If DTS is only allowed to reduce the tax base to 57 (60-3), the tax is only reduced with 0,75 implying and increase of effective tax cost from 15 to 17,25.