The Economic Cost of IPR Infringement in the Tyres and Batteries Sectors

February 21, 2018 *About the EUIPO*

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The latest report in the quantification of infringement study series, released today by the EUIPO, through the European Observatory on Infringements of Intellectual Property Rights, shows that EUR 2.4 billion is lost each year through counterfeiting in the tyre and battery sectors in the EU.

The findings of this study show that:

- EUR 2.2 billion – corresponding to 7.5 % of all sales in tyres for cars, trucks and two-wheeled vehicles – is lost each year due to counterfeiting across the EU.
- The presence of counterfeit batteries in the EU market costs legitimate industry EUR 180 million each year, which is equivalent to 1.8 % of the sector's sales.
- These lost sales translate into the loss of approximately 8 400 jobs across the sector, as legitimate manufacturers employ fewer people than they would have done in the absence of counterfeiting.
- In terms of lost taxes, the total loss of government revenue as a result of counterfeit tyres and batteries amounts to EUR 340 million.

The full study in English and the Executive Summaries in 23 languages can be found here

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LIBE Committee discusses the future of the Schengen Area

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[Keynote speech by Commissioner Moscovici at the 'Masters of Digital 2018' event]

Ladies and gentlemen, dear guests,

It is a great pleasure for me to join you today. Thank you for inviting me. Commissioner Gabriel was here earlier this morning: she gave you a sense of where we would like to take Europe's "digital economy and society" in the future. I would like to complement her perspective with a specific focus on an issue which I know is of immediate interest to you: taxation in the digital age.

Let me be very clear: digitisation has had a major transformative effect on economic fundamentals and is highly beneficial to our economy. Europe must embrace this opportunity and work with the digital companies that are spearheading this profound transformation. We see a strong Digital Single Market as the key to maintaining Europe's position as one of the world's most important economies. Our continent has a very competitive industrial base and is a global leader in key sectors. The digitisation of its economy is crucial to maintaining this leadership.

As Commissioner for economic and financial affairs, I am very much aware of the contribution of your industry to our economy. There is a growing and welcome recognition that we need to develop the digital economy to expand its benefits, from business creation to productivity. In Europe the ICT sector generates 25% of total business R&D; the ICT sector and investment in ICT are responsible for 50 % of productivity growth. This is a remarkable achievement – and one on which we must continue to build.

As part of building the Digital Single Market and fostering growth, the European Commission is determined also to preserve a level-playing field, to promote Europe's general interest and to ensure fairness. And in this context, regardless of its undeniable benefits, the digital economy also brings unprecedented challenges.

Let me address some of these challenges:

Digital companies are growing faster than the economy as a whole: in the last 7 years, the average annual revenue growth for the top digital firms was around 14%, compared to around 3% for IT & telecoms and 0.2% for other multinationals.

The development in terms of market capitalisation is even more impressive. In 2006, technology companies only represented 7% of the market capitalisation of the 20 largest players. In 2017, they accounted already for 55%!

Do not get me wrong: this is good news! I want the digital economy to reach its full potential in Europe. But these positive developments have also made some issues more salient and have exposed the outdated nature of some of our regulatory frameworks.

Corporate tax frameworks in particular have not been able to keep up. They were conceived in a pre-internet age and are confounded by today's mobile, globalised and digital companies. They rely heavily on the concept of physical presence and are underpinned by the simple principle that profits should be taxed where value is created.

Digitalisation has shaken this principle to its core. In a digitalised world, it can be difficult to pin down the value that has been created, how it has been created, and where it should be taxed.

In Europe it has become common enough for companies to have a significant digital presence in a Member State, and make substantial profits there, but to enjoy tax levels close to zero. One social media company generates today well above half of its revenues from its international business. It offers services to consumers abroad and uses their data to further improve its services. It concludes contracts in foreign jurisdictions, taking full advantage of the infrastructure and rule of law institutions available there. Yet only 5% of the taxes paid by this company accrue to these jurisdictions.

What is visible here is a deep schism between where digital profits are generated and where they are taxed (if at all).

This is a problem on two levels:

First, there is a question of fairness. Our Single Market relies on a level playing field, where all companies – large or small, digital or not – pay tax where they make their profits. Yet on average, domestic digitalised business models are subject to an effective tax rate of only 9%. This is less than half compared to traditional business models facing an effective tax rate of 21%.

Second, as the digital economy overtakes the traditional economy in terms of market presence, Member States face shrunken tax bases and dried up revenues. And this is where I take off my "taxation hat" and put on my "economic and fiscal hat": one of the lingering legacies of the crisis is high debt levels in many Member States. To reverse that development, governments have to secure their tax bases.

That calls for a fundamental overhaul of our corporate tax systems – and Europe is about to decide how to do just that.

I have three messages for you today regarding our response:

First – and I know this will raise some eyebrows in this audience – *it is happening*. And by that I mean that several Member States are determined to take action to address what they see as a "problem" that must be "fixed". This perception is now shared at the highest political level in many European governments. Digital taxation is no longer a question of "if" – this ship has sailed.

Second, the question is how. Let me put this very plainly: either we move forward in *an orderly fashion*, or we move forward in a *disorderly fashion*. Member States are becoming increasingly frustrated at their inability to tax the high volumes of digital activity within their borders. Some have taken, or plan to take soon, unilateral measures in an attempt to solve the problem. A combination of fragmented, uncoordinated national “patches” and solutions would negatively affect the single market, raise compliance costs and ultimately undermine competitiveness: that is the disorderly outcome we would very much like to avoid.

There is an antidote to this, and it’s a prescription pill called Europe. Some of you may feel that an EU initiative will be costly: well, no EU action would probably be even more costly. My objective is to bring Member States to a common understanding of the challenges they face, and a common view of how they can best address them. Ideally, progress should be registered at international level, to ensure as much consistency as possible – but that is not a prerequisite.

My third and last message for you today is this: be part of this discussion. We see no need to oppose Member States and digital companies. They share the same interest. But we must act fast to secure a common approach to digital taxation to avoid serious disruptions and ensure business’ certainty in the field of taxation. Help us shape the best possible way forward for your industry and the best possible outcome for the European economy. Some of you question that the digital economy can be ring–fenced. Others feel strongly that Europe should not move forward without its international partners.

These are all important and legitimate questions that will have to find answers in the months to come. Where you want to position yourself in this debate is up to you, but I would urge you to be part of the conversation and more importantly, to be part of the solution.

As you are well aware, I cannot give you much detail on our upcoming proposals today – mainly because we are still in a preparatory phase and need to finalise them. However I can give you a sense of what we have a mind, the options we are exploring and the objectives we’d like to reach.

We were very clear in our Communication last September that we regard an ambitious, workable and effective international approach as the best solution to digital taxation.

This is self-evident, given the globalised, mobile and highly complex nature of the problem.

We are working very closely with the OECD on this issue, and look forward to the report that it will present to the G20 this spring. However, international progress does not give cause for much optimism on either the pace or scope of digital tax reforms we can expect. There has been very little appetite amongst key global players to find concrete solutions.

Meanwhile, EU Member States have been very clear that they want solutions sooner rather than later.

In its December 2017 conclusions, the ECOFIN Council looked forward to appropriate Commission proposals by early 2018, taking into account developments in the OECD ongoing discussions.

That’s why, in parallel to the OECD’s work, the Commission is working on an EU approach to digital taxation. Next month, we will present our proposals for the fair and effective taxation of the digital economy.

Our aim is to give impetus to the international debate and help push our global partners to act, while resolving the tensions in our Single Market.

Our proposal will address the problems of:

Where to tax: by finding a fair and balanced way to establish taxing rights, taking into account that a business may provide digital services to users in a market without being physically present.

What to tax: by establishing a fair and effective way to reflect new forms of value creation, such as the user contribution, in the allocation of profits.

In parallel to our work on a comprehensive solution to digital taxation, we may also need to consider some more immediate targeted measures.

I’ve already outlined the risks of each Member State taking its own national approach within a Single Market. A simple, stop-gap measure at EU level may be the only way to address such risks.

The aim of any targeted measure should be to address the most serious voids in our corporate tax systems when it comes to digital taxation, and to prevent unnecessary burdens for companies through a patchwork of national measures in our Single Market – especially SMEs.

Ladies and gentlemen,

The questions around the issue of digital taxation are vast and complex – and we are doing our best to wade through them to find the right solutions.

As part of this process, we are consulting very widely with businesses, Member States, international organisations, academics and NGOs and have done so also in our public consultation.

We greatly value the feedback and insights we receive from all stakeholders. They underpin the analysis supporting our proposals.

With our proposal on the table, the EU will fully assume its leadership role: an EU that is united, ready to propose ambitious solutions at an international level.

The economic and digital world won’t wait for us. The EU has understood that and we will lead by example, by bringing credible answers to an urgent problem.

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