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## **A Critical Look at the European Commission Staff Impact Assessment Relating to the Proposed EU Directives on Taxation of the Digital Economy**

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This note examines some of the factual assumptions and economic arguments presented in the European Commission staff's "Commission Staff Working Document — Impact Assessment," issued on March 21, 2018, to accompany two draft Directives the EC released relating to taxation of the digital economy.<sup>1</sup>

The proposed Directive which has received the most attention would institute a "digital services tax" on gross revenues derived from the provision of certain digital services. The definition of covered services is tailored to target particular types of enterprises which engage in digital interactions with users.<sup>2</sup> This gross-based tax is proposed as an interim measure until such time as a comprehensive solution can be agreed upon and implemented among European Union Member States. The preferred comprehensive solution is presented in a proposed Directive to define a new "significant digital presence" permanent establishment based on providing digital services into a state, and profit attribution rules to attribute profit to that PE, regardless of the fact that the enter-

<sup>1</sup> European Commission, *Commission Staff Working Document Impact Assessment (Accompanying the document Proposal for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence and Proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services)* (Mar. 21, 2018) (hereinafter, "Impact Assessment").

<sup>2</sup> In general, the categories are digital advertising, multi-sided digital interfaces, and the transmission of data.

prise may have no actual personnel or property in the state. The new significant digital presence PE would be incorporated into the ongoing Common Consolidated Corporate Tax Base (CCCTB) discussions.

The Impact Assessment contains an extensive discussion of alternatives the staff considered for both the interim and comprehensive measures, the anticipated impacts of these taxes on various categories of taxpayers, and the rationale for choosing one approach over another. The document starts out by defining the problem to be addressed and the objectives to be achieved through the proposed tax law changes. The perceived problem is defined by reference to certain economic characteristics of digitalized business models and an assertion of the tax consequences that arise from the operation of those business models in international commerce. The impression one gets is that the Impact Assessment is more the result of a political process aimed at supporting a predetermined result, rather than a reasoned analysis.

### **Value Creation**

The single most important assumption in the Impact Assessment is the assertion that digitalized business models create "a strong misalignment between value creation and taxation."<sup>3</sup> The Impact Assessment expresses the concept in a variety of ways. In one expression, the staff writes that businesses should "pay their taxes where profits are made and thus where value is created."<sup>4</sup> In another place, dealing with the factors by which profits should be attributed to a digital PE, the articulation is somewhat different: "...in the digital economy, a significant portion of the value of a business is created where the users are based and data is collected and processed."<sup>5</sup>

The problem with these statements is that by expressing the conclusion in the passive tense, the state-

<sup>3</sup> Impact Assessment, 16.

<sup>4</sup> *Id.*, at 5.

<sup>5</sup> *Id.*, at 32.

ments avoid the hard questions: Who exactly is the relevant value creator for purposes of corporate income taxation? At what physical location does that person actually create whatever value is created through user interaction? What exactly about interacting with users is the value-creating activity? Finally, once those questions are sorted out, how do the answers justify a changed nexus rule for cross-border transactions? And why shouldn't that justification apply to all remote sales of goods and services rather than be limited to selected digitalized lines of businesses?

The mission statement of Actions 8–10 in the OECD/G20 Base Erosion and Profit Shifting final report<sup>6</sup> is to “[a]ssure that transfer pricing outcomes are in line with value creation.” That is a statement of a transfer pricing principle, not of nexus determination. To repurpose that principle into one of nexus determination, the passive tense needs to be re-expressed in the active tense, to put the analytical focus on the activity of the taxpayer, which after all is the entity to which the nexus rules will apply.

It is difficult to contest the proposition that the relevant value creation should be value creation *by the taxpayer*. To put the focus on the taxpayer, the first statement above should be restated as: “A digital enterprise should pay its taxes where the taxpayer creates value and, thus, where its profits are made.”

Assuming that this is an acceptable articulation of principle, then what value-creating activities undertaken *by the enterprise* are relevant here? The Impact Assessment asserts that a significant part of the value “is created where users are based and data is collected and processed.” The aggregation, structuring, processing, and analysis of data does not occur at the user's location; it happens at the location of the enterprise through the enterprise's personnel, employing the enterprise's hardware and software assets. Those assets may reflect investments of tens of billions of dollars or euros. The search for the location of value creation, therefore, points to a place other than the user's location.

Thus clarified, the business model being addressed is the taxpayer deploying its personnel, capital, and risk assumption resources in one country, and interacting with users in another. The Impact Assessment doesn't present a principled discussion of why *the enterprise* should be considered to be creating value at the user location, or why, even if true, that activity justifies a nexus determination.

It is useful to note that the OECD, through the Task Force on the Digital Economy, has been given a man-

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<sup>6</sup> Organization for Economic Cooperation and Development, *Aligning Transfer Pricing Outcomes With Value Creation*, Actions 8–10 Final Reports (Oct. 5, 2015).

date to consider this exact question during the remainder of its work, with conclusions to be presented in its final report in 2020. It seems strange that the European Commission would advance a proposal now, when the OECD will devote considerably more analytical resources to consider this very question.

### Methodological Foundation

One of the more interesting elements of the Impact Assessment is that it supports its conclusions based on the results of a public survey, which was open for participation between October 26, 2017, and January 3, 2018.<sup>7</sup> The survey took the form of posing various questions or propositions with which the respondents could agree, disagree, or express no opinion. Some observers reacted to the survey with a fair degree of skepticism that the survey results could in any way be meaningful for purposes of determining international tax policy. For example, the survey asked whether tax policy should be designed to “ensure a level playing field” and whether companies should pay their “fair share” of taxes. The survey did not come with a glossary explaining the political dimension of the expressions “level playing field” and “fair share” in the context of the digital economy debate, so it would be surprising indeed if the vote came in opposed to level playing fields and fairness as general concepts. It is also interesting to note that approximately 49% of the respondents were individuals, with business organizations and individual businesses making up the second and third largest categories of respondents.

The Impact Assessment thus relies in part on the vote of a self-selected segment of the public to justify the proposed interim solution of the digital services tax and the comprehensive solution of the significant digital presence PE. It is interesting to note, however, that essentially the same majority of the public voted in favor of the destination-based corporate income tax and worldwide unitary formula apportionment as “solutions” to the “problem.”<sup>8</sup> As those other equally high-scoring alternatives were not considered as possible solutions in the Impact Assessment, it seems the staff chose to use the vote of the people only to support the staff's preferred alternative.

### Tax Avoidance

One of the principal justifications for the proposals set out in the Impact Assessment is to counter tax avoidance opportunities.<sup>9</sup> The Impact Assessment assumes as a matter of course that digitalized businesses

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<sup>7</sup> Impact Assessment, 86–91.

<sup>8</sup> Impact Assessment, 90–91.

<sup>9</sup> Impact Assessment, 24. To “fight against aggressive tax planning” is listed as one of the specific objectives of the proposals. Impact Assessment, 23.

are more able than other businesses to pursue specific tax avoidance opportunities. If that truly was the policy justification, it is curious that the Impact Assessment gives little or no weight to all of the work of the OECD/G20 BEPS project, and ignores completely the effects of U.S. tax reform, which imposes U.S. tax on accumulated unrepatriated foreign earnings and eliminates any possible stateless income with respect to U.S. multinationals by effectively imposing an immediate tax on their worldwide earnings.

The principal lightning rod animating the BEPS project was the structure of pre-2018 U.S. controlled foreign corporation rules that allowed U.S. multinational enterprises (by no means limited to digital service providers) to defer U.S. tax on earnings from foreign markets in a low- or no-tax environment until repatriated as dividends. References to a current state of “no” taxation of digital company profits or “untaxed digital business models” appear at various points in the Impact Assessment.<sup>10</sup> U.S. tax reform, of course, has made stateless income a thing of the past for U.S. multinationals, eliminating that argument as a justification for new special taxes or nexus proposals. The Impact Assessment, however, doesn’t mention the consequences of U.S. tax reform, despite emphasizing the fact that “large digital multinationals are particularly concentrated in the United States,” and in spite of the fact that the thresholds for the measures proposed seem consciously designed to include certain U.S. multinational groups within the scope of the tax.<sup>11</sup>

### ‘Problem Drivers’

The Impact Assessment describes several aspects of digital businesses as “problem drivers” that form the economic justification for special taxation for these digitalized businesses. However, it is difficult to see in these business characteristics any element that resonates as a tax policy matter to suggest that a special taxation regime would be appropriate.

The first characteristic is the fact that in the digitalized economy it is increasingly possible for an enterprise to enter into a contract of sale directly with a customer in another jurisdiction, instead of distributing its goods or services through a series of contractual intermediaries that includes local entities. This point undoubtedly is true, but more properly it should be considered as raising the issue of the tax policy consequences of many businesses adopting centralized sales models (normally adopted for sound business purposes), as opposed to anything that is unique to digital services businesses.

In the context of the wider digitalized economy debate, this point has given rise to arguments that digi-

talized companies are somehow different on the basis that they exhibit “scale without mass.”<sup>12</sup> This expression seems to imply that enterprises engaged in the digitalized economy somehow are able to create, deliver and support their services without commensurate labor and capital inputs relative to other businesses. This point of view probably stems from many tax administrators being on the consumer end of digitalized supply chains, and not having visibility into the significant employment, capital and entrepreneurial inputs that exist in any well established enterprise, including those that develop and deliver digital services.

The Impact Assessment attempts to quantify the degree to which digitalized economy companies have centralized their operations to an extent which might distinguish them from other enterprises. The ratio proposed for this comparison is essentially the relative intensity of balance sheet assets (thereby overstating the importance of tangible property) in market jurisdictions compared to the group’s sales into those jurisdictions. Not surprisingly, digitalized companies exhibit a greater concentration of their assets in their residence jurisdiction than do traditional companies, although, interestingly, the concentration factor as presented in Table (1) was even higher for a group of companies the Impact Assessment refers to as “IT & Telecoms.”<sup>13</sup> The business phenomenon being described seems to simply be that of business concentration through centralized selling, rather than an attribute of the digitalized economy that demands discriminatory taxation.<sup>14</sup> It is worth noting that the paper released by the U.K. Treasury regarding digital taxation separately identified the business structure of remote selling as a business structure in addition to digital services which warrants further consideration as a tax policy matter.<sup>15</sup>

The second business model element described as justifying a tax policy change is the existence of multi-sided platforms. The Impact Assessment’s description of interactions a user may have with a site focuses exclusively on actions by users, without regard to the taxpayer’s entrepreneurial contribution of personnel, capital, or risk assumption to the creation of the platform, or the hardware, software, and other technical resources deployed to enable user interac-

<sup>12</sup> Impact Assessment, 12.

<sup>13</sup> Impact Assessment, 11. The “international footprint” of “IT & Telecoms” exceeds that of “Digital” by 2.2 to 2.1. In this ratio, a higher number means more residence state concentration.

<sup>14</sup> For a thoughtful discussion raising questions as to whether special measures for centralized business models are appropriate, see Wolfgang Schön, *Ten Questions About Why and How to Tax the Digitalized Economy*, Max Planck Institute for Tax Law and Public Finance Working Paper 2017-11 (Dec. 2017).

<sup>15</sup> HM Treasury, *Corporate Tax and the Digital Economy: Position Paper*, 7–8 (Nov. 2017).

<sup>10</sup> Impact Assessment, 19, 22.

<sup>11</sup> Impact Assessment, 113.

tion and capture, structure, and analyze data. As such, offering this description of the multi-sided business model as a justification for policy change while ignoring all contributions of the enterprise itself is an obvious example of assuming the conclusion that value is created at the user location. The Impact Assessment does attempt to distinguish advertisements served up on multi-sided platforms from advertisements shown on television or radio, by asserting that the principal difference is the “unique, almost personalized manner in which advertising placements track the user.”<sup>16</sup> The Impact Assessment does not discuss why greater personalization of a service warrants a change to international tax policy.

The third stated attribute of digital enterprises is the importance of intangible assets. No one doubts that companies which invest in highly digitalized business models rise or fall on the strength of their intangible property. It is also true, however, that the same business risks and opportunities exist for any number of business sectors which rely on intangible property to distinguish their products in the market, whether it is a patent on a lifesaving pharmaceutical or a trademark of a particularly fashionable designer. The Impact Assessment does not argue directly that a reliance on intangibles justifies special taxation rules as a matter of policy, but it seems to consider this factor as support for the proposition that digitalized enterprises need special attention to counter tax avoidance.

Finally, the last business element described as a “problem driver” is an allegation that digital markets exhibit “winner takes most” dynamics.<sup>17</sup> This article, of course, is not the place for an analysis of whether this statement is true as an empirical fact. Even the casual observer, however, can note that the market potential of the internet is still giving rise to many opportunities for startups to make their mark in the market, and even the “digital giants” face fierce competition from various quarters. Evolving digitalization technology is reducing market penetration barriers for all digitalizing businesses throughout the world. Digital business sectors such as internet search have seen many winners and losers rise and fall over the years, and other cases of industrial concentration can easily be recounted, such as in steel, automobiles, telecommunications, or other sectors. This point essentially is one of industrial economics and perhaps competition law. It is hard to see how it has any relevance to tax policy.

### Description of the Consequences

The core of the staff’s arguments in the Impact Assessment for a change in tax policy as applied to digi-

tal services is the description of the tax consequences which purportedly arise from the business characteristics described above. The principal consequences described are opportunities for tax avoidance, and the lack of a level playing field. In both elements, however, the analysis does not stand up to scrutiny.

The Impact Assessment refers to three opportunities for tax avoidance: (i) misalignment of value creation and taxes paid; (ii) artificial avoidance of permanent establishment rules; and (iii) shifting profits through the transfer of intangible assets.

The first element essentially just repeats the assumptions expressed elsewhere in the document, namely that user contributions constitute value creation by the enterprise at the user location. No further analysis is provided as to how the enterprise creates value at a place other than where it deploys its resources, or why this would be a phenomenon that justifies a change in tax policy.

The assertion that digital enterprises are more easily able to circumvent the existence of a permanent establishment is more interesting, since the two purported avoidance strategies — namely commissionaires and the treatment of some functions as preparatory or auxiliary — are exactly the issues that were thoroughly addressed in Action 7 of the BEPS Project. The OECD Model Tax Convention now has been amended to address commissionaire arrangements and to modify the preparatory or auxiliary rules. Many multinational enterprises are restructuring to comply with the Action 7 requirements, increasing taxes paid in the market jurisdictions, even in cases where the relevant treaties have not been amended. Since “mission accomplished” now can be declared with respect to that issue, it is hard to see how this argument now warrants a change in taxation for the digital economy.

The final tax avoidance opportunity is the purported ability of digitalized enterprises to shift profits through the transfer of intangible assets. The Impact Assessment points to tax planning relating to intangibles as the main culprit for profit shifting, citing certain academic research which the staff asserts “shows without ambiguity that placing intellectual property in a country with a generous intellectual property box allows lowering the effective average tax rate significantly — and more than any other tax planning structure.”<sup>18</sup> That, of course, is the whole point of patent boxes, all of which are creatures of the domestic law of those jurisdictions which have chosen to introduce that incentive into their national law. The benefits of patent boxes are available to traditional businesses without regard to digitalization. Action 5 of the BEPS Project wraps some relatively iron-clad protections

<sup>16</sup> Impact Assessment, 13.

<sup>17</sup> Impact Assessment, 14.

<sup>18</sup> Impact Assessment, 17.

around inappropriately generous patent boxes, so that now all patent boxes, at least those within the EU, must conform to the “modified nexus” standard.<sup>19</sup> The observation that patent boxes indeed are effective to achieve their intended purpose was validated through the public consultation: 73% of the public respondents, and 14 out of 21 national tax authorities, agreed with the statement that “the current international taxation rules allow digital companies to benefit from certain tax regimes and push down their tax contributions.”<sup>20</sup> If the patent box is seen as the principal culprit here, it is curious that the responses from both the public and government sides in the consultation were not at 100%.

In any event, if tax minimization through transfers of intangibles does create a profit-shifting problem, it is a problem of the state where the intangible was funded and developed, not of the state where users reside.

The Impact Assessment built a similarly wobbly foundation to support the proposition that digital businesses don’t compete on a level playing field, asserting that digital business models enjoy a lower effective tax burden than traditional business models. The EC staff based its analysis on academic work published by the Zentrum für Europäische Wirtschaftsforschung GmbH (“ZEW”), and determined that multinational groups following digital business models showed a much lower average tax rate than multinational groups engaged in traditional business models.<sup>21</sup> The argument that the targeted digitalized enterprises are “undertaxed” seems to be the principal motivation behind these proposals. Unfortunately, the data doesn’t support the staff’s conclusions.

First, the staff itself reported in the Impact Assessment that the average effective tax rate of digital companies operating only domestically was even lower than that of multinational groups, which hardly supports the proposition that multinationals enjoy the benefits of an uneven playing field.<sup>22</sup> Further, the Impact Assessment notes that the lowest effective rates are created through utilization of patent boxes, which as noted are completely creatures of domestic law and are particularly prevalent in the EU.<sup>23</sup>

Second, subsequent academic research carefully examined the reported financial statements of many

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<sup>19</sup> The Impact Assessment itself at page 27 notes that this will reduce tax planning opportunities.

<sup>20</sup> Impact Assessment, 17.

<sup>21</sup> Impact Assessment, 18.

<sup>22</sup> *Id.*

<sup>23</sup> The Impact Assessment itself notes at footnote 26 various of the reasons digital companies show low effective tax rates, including current deductions for development expense, R&D credits, and the like. Impact Assessment, 18.

digital and traditional enterprises, and concluded that the actual average corporate tax rates of highly digitalized enterprises considerably exceeds those estimated by the EC staff, and don’t differ materially from those of traditional enterprises.<sup>24</sup>

Finally, and most remarkably, shortly after the Impact Assessment was released, the ZEW study lead author contradicted the staff’s conclusions, stating in an interview that the digital sector was not undertaxed, and that the staff had misapplied his work.<sup>25</sup>

The Impact Assessment asserts two other consequences of digital business models which are less susceptible to quantitative review, namely less revenue for public budgets and the risk of fragmentation of the EU’s single market.

The Impact Assessment rather alarmingly notes that, that low (or no) taxes paid on digital activities “puts at risk the sustainability of public finances.”<sup>26</sup> The analysis assumes that significant base erosion exists, but doesn’t recognize the fact that the allocation of the global tax base of an enterprise toward a market state necessarily implies the allocation of that single tax base away from the provider state. As noted above, after U.S. tax reform there cannot be any stateless income, as the United States has asserted its rights to currently tax the entire tax base created by U.S. multinationals. As a tax policy matter, the argument about “base erosion” should instead be one about base allocation.<sup>27</sup>

On the other hand, it is in this section that the Impact Assessment comes closest to presenting arguments for special taxation that are grounded in traditional tax policy principles. Under the heading of paying a “fair share,” the Impact Assessment refers to the

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<sup>24</sup> Dr. Matthias Bauer, *Digital Companies and Their Fair Share of Taxes: Myths and Misconceptions*, European Centre for International Political Economy, ECIPE Occasional Paper (Mar. 2018).

<sup>25</sup> Jack Schickler, *EU Study’s Author Doubts Digital Transactions Undertaxed*, Law360 (Mar. 6, 2018). PwC also has posted publicly that the ZEW study “does not support conclusions that the digital sector is undertaxed.”

<sup>26</sup> Impact Assessment, 19. Whether such an apocalyptic statement is appropriate in light of the existence of areas such as VAT fraud which give rise to much greater revenue losses can be debated. Furthermore, as the OECD Interim Report notes, many countries worldwide have imposed VAT on remote supplies of services and intangible property to consumers and have made substantial collections as a result. In the EU’s first year of adoption in 2015, collections were in excess of EUR 3 billion. OECD (2018), *Tax Challenges Arising from Digitalisation —Interim Report 2018: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project (OECD Publishing, Paris), 104.

<sup>27</sup> The extent of base erosion due to BEPS-type activity generally can be debated. Bauer, above, at 18, observes that total EU tax receipts from corporate profits has remained remarkably constant for over 20 years. It will be interesting to see whether the OECD follows up on the possibility expressed in Action 11 to monitor the ongoing effects of BEPS.

traditional policy argument to justify taxation of an enterprise that the jurisdiction has made public benefits available to the taxpayer. In the case of digitalized enterprises, the staff writes that the public benefits “will include the physical internet infrastructure, rule of law and judiciary in the country, but also the education and digital skills of potential users.” As a special condition applicable in the EU, the staff also argues that all companies with cross-border activities benefit from the “fundamental freedoms” enshrined in the EU constitutional documents.<sup>28</sup>

Referring to the public internet infrastructure as one of the public benefits offered to nonresidents seems a little much, given that most of that infrastructure was privately financed by private enterprises.<sup>29</sup> The providers of digital services themselves finance the construction and operation of data centers that host their digital content. The reference to a digitally skilled consumer base resonates with arguments heard in other countries about the special features of their consumer base that should attract an enhanced return on sales into the country.<sup>30</sup> The other points about companies benefiting from the rule of law and the EU fundamental freedoms hardly distinguishes digitalized companies from any other enterprise.

The Impact Assessment states that the final damaging tax consequence of the special nature of digital enterprises is the risk that countries will enact disparate domestic tax measures that would have the effect of distorting competition and creating double taxation. That risk appears to be real, and business (digitalized and otherwise) will wholeheartedly endorse the point that such a development would be unfortunate indeed. To state that uncoordinated national tax measures are a consequence of emerging digitalized business models seems to be assuming the result, however; the

question is whether any such special tax should be imposed in the first place.

### The Interim and Comprehensive Proposals

The purpose of this note is to test the foundations of the policy arguments for both the interim and comprehensive proposals as expressed in the Impact Assessment. An analysis of the design features of the two groups of policy options and the relative merits of the ones finally selected as the preferred interim and comprehensive solutions can be left for later. What can and should be observed now, however, is that this discussion should be subordinated to the ongoing work of the OECD, as the OECD Inclusive Framework continues to explore whether a consensus solution can be found to respond to the clear dissatisfaction of many governments with the existing balance of source and residence taxation, on a basis equally applicable to all enterprises. That work is expressly within the mandate of the Task Force on the Digital Economy, with full participation of the Inclusive Framework and with expected publication of a final report by the Task Force in 2020.

Even if it can be assumed that these issues will be subject to a good faith debate at the OECD level, some of the calculations in the Impact Assessment give an insight as to how far apart some countries might be on how far or how fast the nexus and profit attribution lines should move. The proposed Digital Services Tax Directive would impose a 3% tax on gross revenue derived from certain digital services. In an illuminating passage, the Impact Assessment demonstrates what overall portion of the tax base arising from digital activities the drafters were proposing to move from the countries of production to the countries of user location.

Given that one of the main justifications for imposing a special tax on digital services is that such companies are “undertaxed,”<sup>31</sup> it seems fair to consider the effects of the proposed tax in terms of traditional profit split analysis. The staff performed a survey of 21 large companies with relevant digital activities, and concluded that the median operating margin of that group was 15%. The staff also noted that the average EU statutory corporate income tax rate is about 23%. If the entire global profit of that median company were taxable at the average EU rate, the total corporate income tax would be 3.45%. If the tax base were to be shifted so that the user contribution is determined to equal 3% of revenue, that would equate to a profit split of 87% to the country of users, and 13% to the countries which supported the personnel, innovation, capital, and risk of the enterprise. The

<sup>28</sup> Impact Assessment, 19, 138.

<sup>29</sup> The core infrastructure of the Internet as it exists today (or “backbone”) was built and is owned and operated by private companies, referred to as “internet service providers” or “ISPs.” See Mark Winther, *White Paper — Tier 1 ISPs: What They Are and Why They Are Important*, 4 (May 2006). A notable exception is France’s major ISP, Orange (formerly France Télécom), which is a multinational telecommunications corporation partially owned by the French government that began as a state-sponsored monopoly.

<sup>30</sup> See, e.g., United Nations, *United Nations Practical Manual on Transfer Pricing for Developing Countries* (2017), 571–572 (New York, 2017) (asserting that China’s consumer base exhibits so-called “market premiums” in the luxury goods, pharmaceutical, and automotive industries, such that “heavy marketing and sales activities” conducted in China generate additional profits for MNEs operating in China that should be allocated to the marketing activities of the sales subsidiaries operating in China. The Chinese theory, at least, focuses on the marketing activity actually conducted in China, as opposed to the EU theory which focuses only on users).

<sup>31</sup> Or even “untaxed,” as inferred in the illustration at Impact Assessment, 22.

suggestion that some countries at least consider an 87/13 profit split in favor of user location suggests that there will be some tough negotiations ahead at the EU and OECD over how profits should be allocated to any virtual PE.

That said, the OECD clearly is the appropriate forum in which to debate this issue. One can hope that

the EU countries ultimately will regard these proposals as contributions to the debate, but then let the OECD perform its normal role of setting global standards for international tax.