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MEMBRE DE LA COMMISSION EUROPEENNE

Brussels, 18.02.2015
Ares(2015)

Dear Secretary of State,

Thank you for your letter of 26 January 2015 highlighting the issue of the VAT treatment of digital books and newspapers.

Firstly, I want to thank you for your congratulations and best wishes on my new position. I look forward to a fruitful collaboration.

I take note that the Netherlands support the introduction of the possibility to apply a reduced VAT rate on the supply of digital books and newspapers.

Under current VAT rules, Member States are obliged to apply a standard rate of at least 15% and may also apply one or two reduced rates, set no lower than 5%. However, reduced rates can only apply to supplies listed in Annex III to the VAT Directive. Electronic services, such as the supply of the digitised content of books over the internet or on an electronic network, are currently excluded from the scope of reduced rates. This exclusion was unanimously agreed for simplification reasons. The 28 national delegations of the VAT Committee also unanimously adopted a guideline confirming that 'the supply of e-books as well as the supply of on-line newspapers and on-line periodicals qualifies as electronically supplied services to which the reduced rates shall not apply according to the second subparagraph of Article 98(2) of the VAT Directive.

The Communication on the future of VAT of 2011 states that the review of the current VAT rates structure, in this context, should be based on a thorough impact assessment covering in particular the principle that similar goods and services should be subject to the same VAT rate. The Communication explicitly stated that progress in technology should be taken into account in this respect, so that the challenge of convergence between the on-line and the physical environment is addressed.

However, this issue represents a borderline case in a number of respects, and thus we need to tread carefully. Many of the arguments put forward in support of extending the reduced rate lend themselves equally well, indeed often better, to support the maintenance of the current regime. For instance, consistency with the neutrality principle, which is cited in your letter as requiring extension of the reduced rate regime, does indeed require that similar products be taxed similarly. However, it is not straightforward that e-publications are analogous to printed publications, for legal, formal and economic reasons.

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In this context, it is worth recalling that the recent report of the Commission Expert Group on Taxation of the Digital Economy, published in 2014, strongly highlights the need for simplicity as the biggest concern, rejects special tax regimes for the digital sector, and calls for the application of the standard rate as the default option ("*such similar products should be taxed at the standard rate, as already provided in EU VAT law, rather than a reduced rate*").

In addition, the risk of adding to the complexity of the VAT system is not to be taken lightly. Given the rapid evolution of the digital sector, it would be perilous for many reasons, including the erosion of the tax base, to introduce a reduced rate treatment to a service which is intimately connected to many others, and which is already now being enriched by adding on accessory services.

The Commission is, for the reasons set above, of the opinion that VAT rates are not a stand-alone issue. They should be part of the global reflection on the implementation of the definitive VAT regime for intra-EU trade. The problems and inconsistencies in the current VAT rate structure have to be addressed within this framework, before deciding the way forward.

The assessment of the impact of the different VAT rates is still ongoing. It has to take account of the complexity of the review, which is much broader than the issue of equal treatment of similar goods and services.

In the context of e-publications we are presently analysing:

- whether or not e-publications and traditional publications are actually to be considered "similar products" from a legal and consumer point of view as well as from a substantive/economic point of view, including (dis)similarities in property rights attached to electronic and traditional publications,
- whether or not the dynamics and structures of markets for e-publications are characterised by significant market failures that could be corrected / remedied by providing a tax subsidy in form of reduced VAT rates, and what the budgetary implications of providing such tax subsidies could be in the longer run,
- to what extent the pricing policies of actors along the value chain (and over time) of e-publications are actually driven by resource costs or levels of taxation, and to what extent it is driven by other factors, such as legal book-price fixing, monopoly rents generated by exclusive intellectual property rights, dominant positions of marketing platforms or price discrimination over time and across borders.

As the results of this analysis are not yet available, it is premature to consider changing the rules currently in force.

Yours sincerely,



Pierre MOSCOVICI