OECD Centre for Tax Policy and Administration

Via Email: cfa@oecd.org

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EGDF response on the OECD report on the Pillar One Blueprint

About EGDF

1. **The European Games Developer Federation e.f. (EGDF)**[1] unites national trade associations representing game developer studios based 19 European countries: Austria (PGDA), Belgium (FLEGA), Czechia (GDACZ), Denmark (Producentforeningen), Finland (Suomen pelinkehittäjät), France (SNJV), Germany (GAME), Italy (IIDEA), Malta (MVGSA), Netherlands (DGA), Norway (Produsentforeningen), Poland (PGA), Romania (RGDA), Serbia (SGA), Spain (DEV), Sweden (Spelplan-ASGD), Slovakia (SGDA), Turkey (TOGED) and the United Kingdom (TIGA). Altogether, through its members, EGDF represents more than 2 500 game developer studios, most of them SMEs, employing more than 35 000 people.
2. **Games industry** represents one of Europe's most compelling economic success stories, relying on a strong IP framework, and is a rapidly growing segment of the creative industries. European digital single market area is the third-largest market for video games globally. In 2019, Europe's video games market was worth €21bn, and the industry has registered a growth rate of 55% over the past five years in key European markets.[2] All in all, there are around 5000 game developer studios and publishers in Europe, employing closer to 80 000 people.[3]

In general

3. **EGDF fully agrees that in order to fight the fragmentation of global digital markets, a global solution is needed for digital taxation instead of regional ones:** Recently many OECD member countries have introduced their national digital tax proposals (e.g. France, Spain, Italy, the U.K., Austria and the Czech Republic). Consequently, the world is quickly heading towards the worst-case situation where no international solution is achieved, and national corporate taxation rules will form a major barrier of entry to global digital markets. Consequently, OECD digital taxation proposal is our last, best hope to avoid further regulatory fragmentation of global digital markets. Therefore, the proposal should include an explicit agreement that all existing and proposed unilateral digital taxation measures are removed.

4. **If the negotiations on the OECD proposal for a harmonised corporate taxation framework do not move forward, OECD member states should explore the possibilities of replacing it with a new digital VAT/GST based model:** OECD should not approach VAT and corporate taxation systems as separate entities. Instead, OECD

[1] For more information, please visit www.egdf.eu

[2] ISFE Key Facts 2020 from GameTrack Data by Ipsos MORI and commissioned by ISFE https://www.isfe.eu/data-key-facts/

[3] European Games Industry in 2018: http://www.egdf.eu/wp-content/uploads/2020/08/European-Report-on-the-Game-Development-Industry-in-2018.pdf

should see them as a unified system, where each of them plays a significant, but different role. The VAT system secures that the sales are taxed in the countries where purchases happen, and the corporate taxation system secures that profits are taxed in the countries where the value is created. Consequently, for any OECD country, the most effective way to guarantee that "remote " participation in the domestic economy enabled by digital means also generates tax revenue is to introduce VAT/GST for B2C digital supplies in accordance with the *OECD International VAT/GST Guidelines*[4]. As already underlined in *OECD Interim Report on Tax Challenges Arising from Digitalisation* the impact of digital VAT/GST has been very promising, and it has also allowed businesses to achieve a notable reduction in their compliance burden.

5. **A fair system for small countries investing in the future of humanity:** As the future of humanity is built through innovations, the OECD should be careful not to create disincentives for its member countries to invest in R&D&I by allocating vast amounts of corporate tax income to the market countries instead of the countries where tech companies are established in. It is crucial that the countries that have made the success of these companies possible by their public investment, also receive the clear majority of the corporate tax income.

6. **Being a part of a corporate group does not necessarily mean huge resources for financial administration:** It is increasingly common for successful game development studios to invest in smaller ones by establishing separate investment arms next to their main business. Consequently, it is completely normal that a successful global game developer owns tens of subsidiaries around the globe that again have invested in tens of new studios. In practice, this means that one successful megacorporation has easily made investments in hundreds of SMEs through its subsidiaries. Many of these SMEs do not specialise in house financial expertise to handle complex tax reporting tasks. Consequently, the OECD proposal has to be crystal clear on when an SME is considered to be part of a corporate group and therefore required to implement new reporting practices.

7. **The regional scope of the proposal should be further clarified:** Currently, the document discusses the impact of the proposed treaty on countries that do not have a bilateral tax treaty between them. It would be useful for OECD to further clarify how the proposed tax reporting practices should be implemented in a situation where a corporate group is doing business in a country that decides not to implement the proposed Blueprint. For example, China is already the biggest market for games in both the size of the market revenue and internet population. The internet population of China is bigger than the USA, Japan, South-Korea, Germany, the UK, France, Canada, Italy and Spain combined.[5] If China does not join the agreement, it is essential to know how the massive amount of players located in China should be taken into account while calculating the amount A.

   It is crucial to keep in mind that European General Data Protection Regulation most likely would make it challenging for companies to justify why they are tracking the location of players from those countries that do not implement the new rules. However, corporate groups would need data for identifying the total number of their users in non-scope countries in order to allocate the right amount of tax to in-scope countries. Consequently, OECD should provide further guidance on this issue.

8. **If the OECD agreement on Pilar One wants to avoid the fate of the agreement on EU-USA privacy shield and the agreement on International Safe Harbor Privacy Principles, it has to take data protection challenges seriously and include privacy safeguards in the actual agreement itself:** EGDF welcomes the fact that for the first time OECD acknowledges the fact that there might be some major privacy-related challenges on, in the worst case, forcing multinational enterprises (MNEs) to build a centralised database tracking the current location of hundreds of millions people for corporate taxation purposes.

   The members of EGDF member associations are the ones that in many cases will the ones providing that location data for the MNEs, as those MNEs are often acting as third-party services providers (e.g. advertisement networks, or cloud services) for game developer studios. Therefore, EGDF is extremely concerned about the fact that OECD does not plan to address the privacy concerns under the actual agreement. Instead, it looks like those fundamental discussions are going to be postponed until the agreement on the new model is signed, and they will be only addressed through non-binding guidelines. This creates a risk that the agreement will be declared invalid by the European Court of Justice. In a bare minimum, it should be clearly mentioned that the OECD agreement on Pilar One and its requirements are without prejudice to national privacy or data protection regulations.

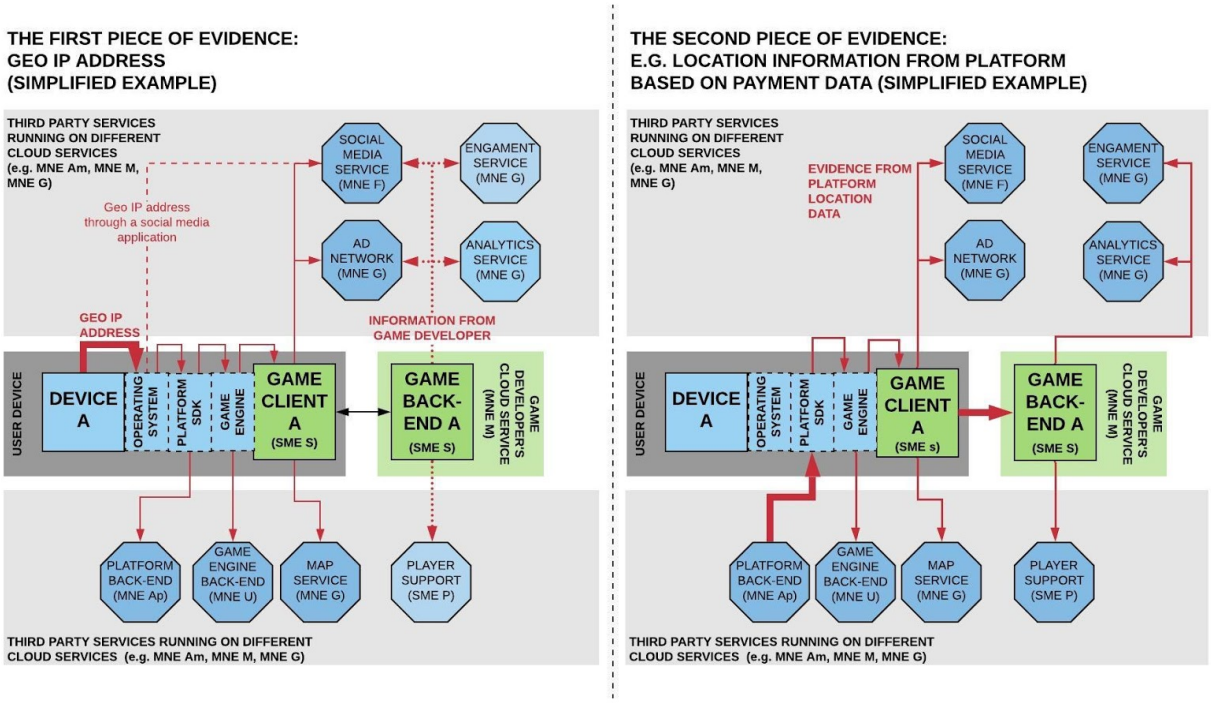
   Furthermore, OECD guidelines must not only address privacy and data protection concerts in MNEs falling under

[4] P. 104, 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

[5] For more information: see for example. https://newzoo.com/insights/rankings/top-10-countries-by-game-revenues/

the scope of Pilar One rules. Those guidelines should also clearly indicate the requirements, rights and responsibilities of third parties (often SMEs) that provide the location data of those MNEs through their digital services (e.g. games).

Ideally, location data can be transferred only to tax authorities in Europe. In any case, the location data of European data subjects should not be transferred to countries that have not signed a data adequacy agreement with the EU. And when European tax authorities are going to ask access to non-anonymised location data, they have to have up to date data security and data breach handling mechanisms.



9. **Minimising compliance costs and administrative burden**: The tax proposed by Pilar one should be collected by the lead authority (the tax authority of the country where the MNE is registered in), and, like in the European digital VAT model, it should be under the responsibility of the tax authority instead of the MNE that transfers and report the tax revenue to third countries.

PILLAR ONE

I The activity test to define the scope of Amount A. *Comments are invited on the design and implementation of the proposed activity test relating to Automated Digital Services and Consumer-Facing Businesses, including any challenges and suggestions on how to address them? [Refers to paragraphs 38-170 of the Blueprint]*

10. **Effective implementation of different national privacy requirements requires a clear and predictable regulatory framework for moving personal data for taxation purposes to third parties:** In general, EGDF supports the proposed model, as it potentially builds a relatively uniform and harmonised regulatory framework for the corporate taxation in digital markets. However, in order to know, when game developer studios are allowed to provide location data of their players to third-party service providers for taxation purposes, OECD has to provide a framework that makes it easier for business users to evaluate when their counterpart is an Automated Digital Service and when it is not:

    - **OECD should further clarify whether or not business users are considered to be users.** It is currently unclear whether or not the end-user refers to only natural persons or also business users. This has a significant impact on what kind of location data third-party service providers have to provide for corporate groups.

    - **OECD should further clarify that falling under the general definition of Automated Digital Services (ADS) shall take precedence over the negative list:** For example, customised online teaching

services rarely are fully automated. However, for example, machine learning and autonomous virtual avatars enabled by the rapid development of AI are likely to make personalised fully automated online teaching possible. Consequently, to make the Blueprint more future proof and avoid creating artificial regulatory barriers between AI online driven edugames and customised learning/teaching tools, the OECD should clarify that on the moment a service on the negative list clearly fulfils the criteria (fully automated and minimal human intervention) for ADS, it will move under the scope of the new rules. Alternatively, the characters of the services on the negative list should be defined more clearly.

- **OECD should further clarify the nature of non-ADS services:** Currently, the Blueprint does sufficient job on explaining what services fall under its scope. However, it does not provide enough guidance on identifying when a service does not fall under its scope. An excellent example of a service that is currently on the grey area between an ADS and non-ADS is user support. Although the user support process itself is highly automatised (e.g. by using chatbots to reply to the most frequently asked questions), a significant part of those services is still built around humans solving the more complex problems for consumers.

  At the moment, the guidelines seem to indicate that the threshold of limited human involvement would be measured based on comparing the total number of support requests solved by humans to the number of requests solved by automated chatbots: " *involves very limited human response to individual user requests… or where in individual cases involving particular, more complex problems, the programmes running the system direct the customer to a staff member".* If this is the case, it should be mentioned in the Blueprint document. Furthermore, a list of other similar indicators for evaluating limited human interaction threshold would be helpful (e.g. autonomous decisions made by AI vs all final decisions are made by humans).

  However, this approach quickly leads to a citation where some of the consumer support services fall under the ADS (e.g. ones providing both the automated online support solutions and the human support) and some do not (e.g. the ones focusing only on support request cases requiring human interaction). In the latter case, the service can also be considered to be a customised professional service. For example, for European game developer studios, this leads to an extremely challenging situation where they have to be able to identify the size and analyse nature of the digital services their MNE service providers are running. Otherwise, they cannot be sure whether or not those MNEs have the right to access the location data of their players or not.

- **Transparency of activity tests:** Especially if the new OECD model leads to a situation where European SMEs are forced to provide personal location data of their users to MNEs for taxation purposes, the legal basis for transferring the personal data has to be justified by the transparent and accessible documentation of the activity test. This is in particular crucial when it comes to the dual category ADS.

11. **Online games should be moved under "Digital Content Services":** Currently, games are divided between two different categories in the definitions: "Digital Content Services" and "Online Gaming". This separation reflects the now increasingly obsolete separation of linear and interactive content. In order to make the Blueprint more future proof, it should make "online gaming" a subset of digital content services. Furthermore, instead of referring to "online games", the definition should address "interactive online content" so that it also covers currency emerging new forms of interactive transmedia content (e.g. online in-game concerts allowing interaction between the musicians and audience).

12. **Further clarification on free digital services:** It is entirely normal that both B2C and B2B digital services have significant supportive business lines that do not generate any revenue, but exist only to retain existing consumers. Game developers, for example, are often running massive player community forums to engage with their core fan community. Similarly, game engine developers might have significant community forums for allowing peer-support between their business users. Often these communities are not in any way directly linked with official sales channels of the main product or services (e.g. a game or game engine). Consequently, it would be necessary to clarify further how the supportive business lines of this kind should be taken to account while determining the total amount and geographic distribution of end-users for Amount A.

II The design of a specific Amount A revenue threshold *(in addition to a global revenue threshold) to exclude large MNEs that have a de minimis amount of foreign source in-scope revenue. More specifically, comments are invited on what would be the best approach to define and identify the domestic or home market of an MNE group (e.g., the residence of the ultimate parent entity). [Refers to paragraphs 182-184 of the Blueprint]*

13. **Global revenue test**: EGDF entirely agrees that a worldwide revenue threshold of EUR 750 million in minimum is needed to secure that, as acknowledged by the OECD blueprint report, the new OECD digital corporate tax does bring an unproportionate administrative burden for both the multinational enterprises (MNEs) and national tax administrations. Introducing a new taxation system is always a complex process that leads temporarily to significant administrative and regulatory uncertainty. Therefore, it would be better to introduce the new system step by step. OECD should start from MNEs with global revenue above EUR 10 000 million and lower the threshold from there when the administrative capacity of national tax authorities and tax consulting companies in assisting MNEs in the implementation of the new system increases.

14. **De minimis foreign in-scope revenue test:** As proposed by the blueprint document, OECD should introduce an additional absolute number threshold for minimum foreign in-scope revenue. However, OECD should carefully monitor what kind of initiatives for tax base optimisation this creates for national tax authorities. E.g. building a protectionist regulatory framework that minimises revenue for foreign companies while still allowing their games to be sold in the local markets.

    For example, at the moment, the Chinese government does not allow non-Chinese companies to publish their games in Chinese markets. Instead, non-Chinese companies are forced to license their games to Chinese owned publishing companies that often operate only in China, and that would therefore fall under the de minimis foreign in-scope revenue test. If China implemented the corporate taxation model proposed in the Blueprint, it would lead to a double win for the Chinese government. First, they force non-Chinese companies to license their games to Chinese publishers with inferior terms leaving only about 15% of the revenue to non-Chinese game developer studios instead of the standard 70%. Secondly, on top of that, they would still be entitled to receive a significant share of tax income based on proposed Amount A due to their massive consumer base.

III. The development of a nexus rule. More specifically, comments are invited on the following points:

15. I**n general**

    Clear limits for the scope of the new nexus: It is crucial that the blueprint document clearly and strictly limits the new nexus rule only for calculating Amount A. It is already, due to the extremely fragmented global regulatory framework, far too easy for businesses to accidentally create a permanent establishment for corporate taxation purposes. The blueprint document should therefore be extremely clear that the new nexus rule cannot be used for any other purpose (including, for example, other tax obligations or consumer protection requirements).

16. **Compliance costs should never be higher than paid taxes:** Average compliance costs should set a minimum country-level threshold under which no tax should be due.

*a**)** The "plus factors" suggested for CFB will be examined as potential indicators which denote an engagement with the market beyond the mere conclusion of sales. In terms of compliance costs and administrability, do you have any comments on these plus factors? [Refers to paragraphs 202-211 of the Blueprint]*

17. **EGDF agrees that a single self-standing group-PE definition should be used instead of relying on a permanent establishment (PE) definition in a tax treaty or domestic law:** The current international tax framework creates a significant risk of unexpected permanent establishments for MNEs operating on global digital markets. Consequently, without a self-standing group-PE definition, the new taxation system would create a considerable tax uncertainty.

***b) Do you consider the suggested plus factors (and hence a taxable nexus under Amount A) could be deemed to exist once a certain level of sales is exceeded?** If so, what should be the criteria for establishing such level? [Refers to paragraph 212 of the Blueprint]*

18. OECD should keep the regulatory framework business model neutral. Therefore, when a consumer-facing business (CFB) reaches the threshold set for automated digital services (ADS), it should be treated as having a nexus for purposes of calculating Amount A. If income from licensed digital content falls under CFB rules and direct sales of digital content under ADS rules with different thresholds, it will make the proposed system unnecessarily burdensome for MNEs.

***c) Should the market revenue threshold contain a temporal requirement of more than one year?** If so, what should it be? [Refers to paragraph 196 of the Blueprint]*

19. **As justified in the blueprint document, the market revenue threshold should contain a temporal requirement of more than one year:** Beyond eliminating unproportionate administrative burden coming from short-living market spikes, it would enable companies based in Europe to follow European data protection rules on tracking consumer location for taxation purposes. In practice, the location data on players can only be collected after the MNE reaches the revenue threshold:

    - **According to GDPR location, data cannot be collected and stored just in case:** only when the market revenue goes above the threshold, the company has a legal basis to start collecting and processing location data for tax reporting. Similarly, the MNE has to stop collecting the location data for taxation purposes immediately when it notices that it goes below the threshold.

    - **According to GDPR, old location data cannot be used for a different purpose**: It would be highly problematic if location data collected for another purpose (e.g. playing a location-based game) would later be used to fulfil a legal obligation (e.g. allocating Amount A between countries) that is not connected with the original purpose of data collection communicated to data subjects.

20. **Consequently, the temporal requirement should be, in minimum, three years**, as the location data collection for taxation purposes can only start in the year after the threshold is reached and documented in financial books.

IV. The development of revenue sourcing rules. More specifically, comments are invited on the following points :

a) Do you have any comments with respect to the proposed sourcing rule and proposed hierarchy of indicators as the basis for the sourcing of revenue for Amount A? *[Refers to paragraphs 227-321 of the Blueprint]*

21. **EGDF welcomes the fact that only one piece of evidence on the location of the users is needed**, as

    - **It is a far more privacy-friendly approach,** as it minimises both the data breach risks and the need for providing other user location data for third parties if those third parties already have access to user geo-IP address.

    - **It minimised administrative burden,** as less sensitive personal location data needs to be collected from the players and thus justified for the players.

22. **The proposed hierarchy should be only an indicative list:** The proposed framework should not lead to a situation where local tax authorities push businesses to start tracking real-time location data of their users for taxation purposes. It should always be clear for all parties involved that when any type of data on the list is available, the businesses do not have to take extra steps to have access to "better" location data just for taxation purposes.

23. **"Information from trusted third-parties" should be added to all lists of indicators:** As in many cases, MNEs will be relying on location indicators made available by their B2B customers closer the end consumer in the value chain, the Blueprint document should add "information from third-parties" among all lists of indicators. Using aggregated data from third parties will not be a rare exceptional case. Instead, it is likely to be the only available source for several actors in the digital value chain. Due to consonantly increasing privacy requirements, game developer studios, for example, are doing all they can to block the direct access of their advertisement networks on any of the indicators listed in paragraph 241.

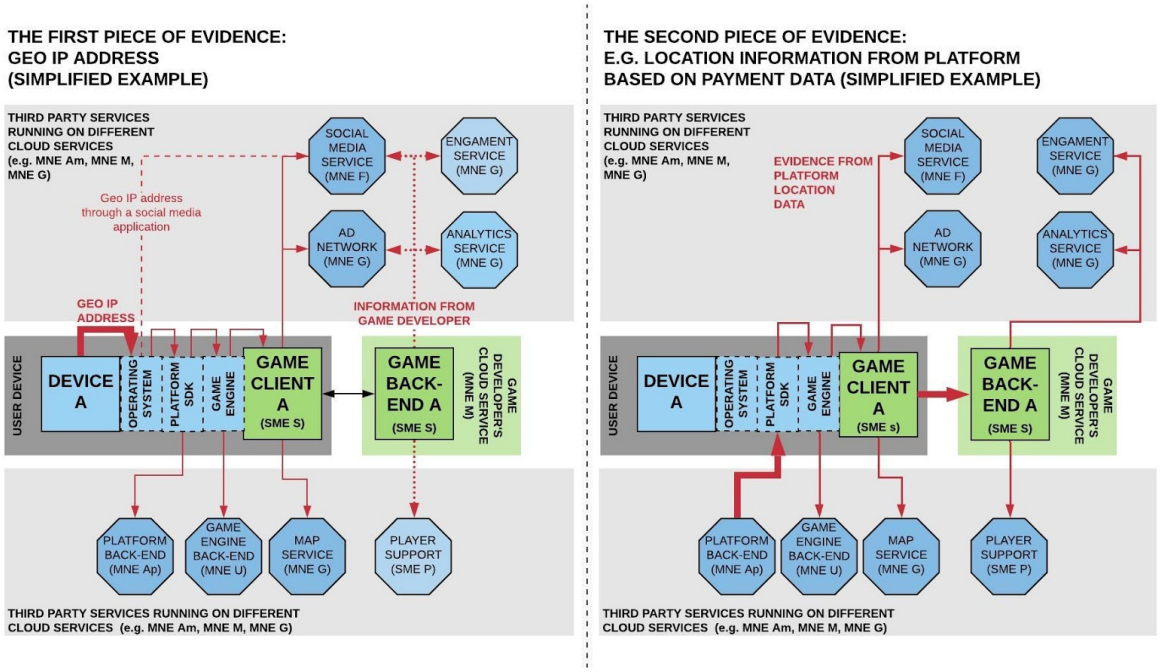
    According to paragraph 224: *"MNEs would thus not be expected to keep a record of all data points on the indicators for every transaction (which may cause concerns relating to privacy) or use of the service, but rather to establish a robust internal control framework on which the tax authorities can rely to conduct their audit, supported by the underlying results of applying the indicators at an aggregate level, as well as retaining a sufficient sample of the underlying data points to justify that the internal control framework is robust."* In practice, this also means that MNEs should not need to have access to original data points on indicators in the first place.

    Instead, similar to the process described in paragraph 378 for the revenue from consumer-facing goods sold through an independent distributor, MNEs should be expected to take reasonable steps to seek a change in the contractual arrangement with the third party and make it technically possible for the third party to automatically report aggregated information on the location of the end-users (no sensitive personal data such as GPS data, geo-IP addresses or specific customer addresses should be required). Ideally, third parties would provide once a month a standardised file listing the number of jurisdictions and data sources used to obtain that information. In practice, in order to make the transfer of aggregated data as straightforward as possible, the accounting software providers should be encouraged to create a standardised file format for data transfers.

It is essential to secure that new OECD taxation rules are not used to undermine the fundamental right to privacy by forcing app developers to implement SDKs of third parties directly on user devices in order to obtain more reliable indicators of tax reporting purposes. Instead, aggregating data from server back end should be enough for most of the services.

In addition, some companies already rely on third-party data on reporting digital VAT (e.g. in Europe). The Blueprint should not create a parallel or more strict corporate taxation reporting obligations. Instead, information acquired for digital VAT reporting should always be sufficient also for determining the location of users for corporate taxation purposes.

Furthermore, third parties cannot be forced to store the original location data for years for audits. Instead, if needed, it should be enough for them to demonstrate how the data is collected.

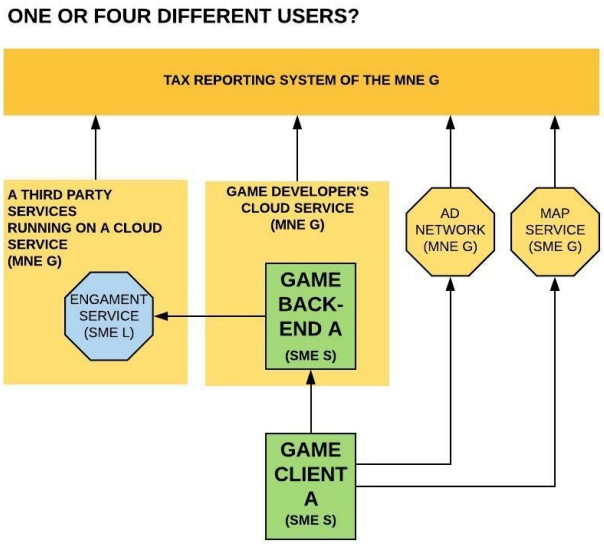


b) What factors should be taken into account in determining "reasonable steps" required to obtain information that is unavailable *(such as changing contracts with third-party distributors)? [Refers to paragraphs 378-387 of the Blueprint]*

24. **The longer the value chain, the more difficult it is to reach the licensee:** As described by the Blueprint, when necessary, MNEs should demonstrate that they have taken reasonable steps to change the contract to obtain the information from the licensee. However, the reasonable steps should take into account the length of the value chain that can be extremely short (e.g. specialised websites selling game merchandise on demand) or long (e.g. Chinese manufacturers selling licensed games merchandise directly to global distributors who are selling them to local distributors).

c) What simplification measures, if any, should be considered in the revenue sourcing rules, such as safe harbours or de minimis rules? *[Refers to paragraphs 388-405 of the Blueprint]*

25. **MNEs should not be forced to identify users for taxation purposes:** Although the same user can use their cloud services, targeted by their advertisement service and make purchases through their application store through several different third-party apps, it should not be necessary for taxation purposes to track down each one of these actions to a single user, as similar duplicates are going be created equally by all users across the globe. Therefore, it should be clearly mentioned in the Blueprint that MNEs do not need to track individual users across their different services. Furthermore, this approach follows the logic where the more digital services are used in the eligible market jurisdiction, the higher should be their share of Amount A.



d) Do you consider that VPNs and/or any other emerging technology may have an impact on the accuracy and/or reliability of proposed revenue sourcing rules? *If yes, what options or design changes should be considered to eliminate or minimise such an impact? [Refers to paragraphs 305-309 of the Blueprint]*

26. **Principles of privacy by design should also apply to tax administration:** VPNs may affect the accuracy and reliability of the proposed revenue sourcing rules. However, the same principles of privacy by design that apply to any business should also apply to the design of tax administration. Consequently, the OECD should carefully balance the fundamental right on privacy against the accuracy of taxation data and accept that sourcing rules will never be 100% accurate. It is important to keep in mind that although there are some digital market segments where incentives for using VPN connections are high, for example for bypassing geoblocking restrictions, in some other market segments consumers do not gain any real advantage by moving their location to another country by using a VPN connection.

V. The framework for segmenting the Amount A tax base, and how it could be further developed to deliver its objectives. As a simplification, this framework includes different options to limit the need for segmentation, including calculating the Amount A tax base on a consolidated basis as a default rule (and applying it to in-scope revenues to produce a proxy for in-scope profits.). More specifically, comments are invited on the following points:

27. **In general**

    The taxation system should not define the company structure. Instead, possible segmentations should be reflecting the business model and market reality of the company. OECD member countries should not be allowed to assert their segmentation requirements to maximise their tax income. Thus segmentation should be allowed, but not required by the corporate taxation rules. Furthermore, EGDF would prefer that instead of building new standards for segmentation, the new model would be built on existing standards.

VI. The development of a loss carry-forward regime that would ensure that Amount A is based on an appropriate measure of net profit. More specifically, comments are invited on the following points:

a) Do you consider that Amount A tax base rules should apply consistently at the level of the MNE group (or segment where relevant) irrespective of whether the outcome is a profit or loss (symmetry)? *[Refers to paragraphs 475-476 of the Blueprint]*

28. It is completely normal for a successful game developer studio to generate losses for the first one or two operational years before turning extremely profitable with a hit game. It would be unfair for the country that has invested in supporting the growth of the company through public R&D&I and cultural support instruments if these losses were covered only in the national taxation and would not be taken into account at all while counting Amount A.

VII. The scope and relevance of possible double-counting issues arising from interactions between Amount A and existing taxing rights on business profits in market jurisdictions. More specifically, comments are invited on the following points:

b) Do you consider that there is an interaction between withholding taxes in market jurisdictions and the taxes under Amount A? *If so, how could such interactions, including double-counting issues, be addressed [Refers to paragraphs 506, 528 and 555 of the Blueprint]?*

29. **The OECD proposal for Pilar One should replace withholding taxes targeting digital products:** Although the scope of the current withholding taxes is usually wider in terms of the number of companies targeted than in the proposed framework, the new proposed framework would target a broader range of activities by the companies generating most of the revenue in the digital markets. Consequently, the OECD member states should carefully evaluate whether or not it would be possible to replace old withholding and any other digital taxes targeting digital products with the new OECD framework. If they are not removed, they should be at least fully credited against Amount A.

IX. The issue of scope of Amount B and definition of baseline marketing and distribution activities. More specifically, comments are invited on the following

30. **In general**

A universal or even sectoral profit level indicator would be problematic: As distribution and marketing costs vary significantly from digital markets to another (some rely on traditional marketing while others require highly specialised novel marketing strategies), creating a universal fixed return model would be extremely challenging. Furthermore, in rapidly developing sectors like the games industry, even industry-specific indicators might be challenging as the marketing and distribution practices are constantly changing and are not often well established (e.g. emerging eSports markets). The current benchmarking system is not perfect, but it works.

Transparency of Amount B: OECD should further clarify the connection between Amount A and Amount B. First of all, as proposed by the blueprint document, OECD should introduce a marketing and distribution profits safe harbour for calculating Amount A. However, it is currently unclear whether or not Amount B and this safe harbour are the same thing or not. Secondly, OECD should further clarify whether or not end-users of local marketing and distribution activities and / or Amount B activities should be taken into account while calculating the total amount of end-users in different countries for Amount A. If the location of end-users is not taken into account for local marketing and distribution activities, the companies cooperating with local European marketing or distribution arms of the corporate groups are not allowed to give the location data of their users for the corporate group for taxation purposes. In practice, without strict transparency requirements for corporate groups, it could easily be difficult for SMEs to know whether or not they are interacting with the part of a corporate group that has a right to collect location data or a part that does not have the right to do so.

XI. The development of an early tax certainty process to prevent and resolve disputes on Amount A. More specifically, comments are invited on the following points:

a) What do you consider will be the key challenges in the early tax certainty process described in the Blueprint and how do you think would they best be addressed?

31. In the long run, companies should only need to register and pay taxes in one OECD country, and the tax authority of that country would be the one taking care of transferring the tax payments to other countries based on the company's tax reports. All disputes between paid taxes should be solved between national tax authorities instead of bilaterally between the company and each disagreeing tax authority.

On the short run, the OECD should secure that the proposed panel process is:

- **Technologically and digitally competent:** It is not enough to just secure access to an effective dispute resolution process, it is equally important to ensure that members of the proposed panels have high enough technical expertise to understand how, for example, AI systems and digital value chain actually work.

- **Secure:** When OECD tax authorities are auditing companies and transferring this information for the panel process, they have to invest in cutting-edge (data) security practices in order to avoid severe data breaches and any industry espionage.

32. **Furthermore, OECD member states should provide sufficient financial resources for their tax authorities** on both advising businesses in the implementation of OECD rules and participating in dispute resolution processes.

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