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**CONTRIBUTION FROM THE
EUROPEAN PUBLISHERS COUNCIL (EPC)
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ON THE REVIEW OF THE EXISTING LEGISLATION ON
VAT REDUCED RATES**

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The European Publishers Council (EPC) is a high level group of Chairmen and CEOs of Europe's leading media groups representing companies with newspapers, magazines, online publishing, journals, databases, books, broadcasting and radio. We have been communicating with Europe's legislators since 1991 on issues that affect freedom of expression, media diversity, democracy and the health and viability of media in the European Union. A list of our members is attached at Annex 1.

Introduction

- ❖ The EPC would like to thank the European Commission for their continuing support for reduced and zero rates of VAT on the press and for this new opportunity to comment on the issues raised in their consultation on the review of the existing legislation on VAT reduced rates. Our contribution focuses on the rates of VAT that affect media and publishing activities.
- ❖ As we have stated over the years, in our view, this is not merely a taxation issue. The most obvious effect of a positive rate of tax on the press is that prices for the consumer are higher. The press is highly price elastic thus the difference in VAT rates often translates directly into

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greater or lower sales. At a time when publishers are expanding press services online, via subscription or tablet and mobile apps, pricing will be crucial to the long term viability of non-printed newspapers, magazines, books and journals. Therefore the outcome of this consultation on VAT can also affect the future of Europe's information society and its consumers' access to quality journalism, information, education and culture.

- ❖ We understand that the current difficult financial situation poses restraints on everybody - Member States; companies and citizens but the role of the media in underpinning democracy, engaging with and promoting citizenship should not be disregarded lightly when considering rates of VAT for the future. This is crucial when it comes to the question of extending existing reduced or zero rates to the non-printed press.
- ❖ These are not just business arguments. There are other crucial and equally persuasive points. Sources of information, education and culture should not be handicapped through taxation. Illiteracy is still present in Europe today¹ and it is a disability that we have a duty and the ability to improve radically.
- ❖ A tax on literacy is a long-term lowering of a nation's tax yield as it affects not only people's daily lives but their performance in the workforce. People with low literacy rates are between four and twelve times more likely to be unemployed than those with high literacy levels. So reduced and zero rates of VAT on the press, in print, online or on mobile devices will deliver an economic mechanism for good.
- ❖ The European Union is aspiring to become a global leader in the knowledge and information society; a hub of innovation and knowledge. The review of VAT rates presents a positive opportunity for the EU to take a leadership role in recognising the value of online press in improving people's job prospects and in contributing to the Digital Single Market.

¹ In a society where **computer literacy** is essential to virtually everyone, the inability to read is undoubtedly a disability that holds people back from good employment as well as denying them the ability to enjoy as full a life as the rest of us. We who read constantly as part of our professional and private lives may find it hard to envisage just how disadvantaged some of our compatriots really are. This is why the European Commission has launched in February 2011 a high-level expert group on literacy, chaired by Princess Laurentien of the Netherlands; IP/11/115: *Commission launches high-level expert group on literacy chaired by Princess Laurentien of the Netherlands*, 1 February 2011



- ❖ The EU Media Futures Forum group², in its 8 recommendations to Commissioner Kroes³, highlights the need to turn Europe into a Digital Single Market by 2015: *“After 20 years of single market, it is still much easier to move boxes than digital goods across borders. We deny ourselves one of our greatest assets. We can't succeed in this competitive environment with one arm tied behind our back.”* Among the proposed solutions the group recommends that *“offline and online VAT should be aligned to incentivise creation of quality content; and because of the important role media and the press play in our democratic European societies such alignment should be at the lower rate.”*

- ❖ The European Commission’s flagship initiatives for EU2020, such as the Digital Agenda for Europe, state clearly that the challenges of convergence between the online and the physical environment “should be addressed in all reviews of public policy, including tax matters” aiming to stimulate further the development and use of the Internet and related goods and services.

- ❖ Publishers were among the first to embrace digital technology to transform their businesses, and for the benefit of their readers, offering their content in different formats and different platforms and devices in order to satisfy and reach as many citizens as possible. In recent years, despite the difficult economic climate and fierce competition from new market players, especially in the digital field, European publishers have undertaken massive investments in digital products and modernized their “traditional” businesses in Europe in the Member States where they operate, where they continue to employ high quality personnel and where they pay their taxes. The publishing industries as a whole form a valuable economic sector in the EU with more than 750,000 employees across a variety of companies. Digital publishing is a developing industry that will continue to be an economic mechanism for good.

² Vice-President Neelie Kroes has established a group to reflect on the impact of the digital revolution on European media industries, the resulting risks and opportunities for these industries for consumers and citizens, and the emerging new business models – against a background of economic uncertainty and reduced revenue for traditional media. This group was established in December 2011 to debate how to improve the policy framework for European media industries and is chaired by Christian van Thillo, CEO of De Persgroep. The aim of this Forum is to foster debates on the futures of EU media and issue recommendations on how best to incentivize quality content and journalism while seizing the benefits of the digital revolution. The Forum draws on the knowledge and experience of more than 20 personalities from the publishing, broadcasting, advertising, telecommunications, equipment manufacturing, social media and online industries.

³ Executive summary: http://ec.europa.eu/information_society/media_taskforce/doc/pluralism/forum/exec_sum.pdf
Full report: http://ec.europa.eu/information_society/media_taskforce/doc/pluralism/forum/report.pdf



- ❖ As stated above, the European Commission, with longstanding support from Members of the European Parliament, recognises the problem but cannot solve the problem without the support of the Member States. It is widely understood, even by the previous public consultation and the Green Paper on VAT, that there is an inconsistency in the VAT rates applied to comparable products or services and in particular in cultural products whose online versions are being taxed at standard rates. This creates an unjustified distortion between comparable content. We call on the European Commission to be bold and support our common cause with the Member States.
- ❖ Consumers should have the choice on how to access their newspaper, magazine, book or other cultural products -on paper, on different digital formats - without VAT forming an obstacle to his/her choice.
- ❖ It is clear to us that Europe should wholeheartedly support a reduced rate for published content, regardless of the format in which it is sold. This will be one of the ways that the EU will create the conditions for fulfilling its digital aspirations by transposing its success in the physical publishing environment to the fast-growing digital space.
- ❖ This is a golden opportunity for the European Institutions and Members States to act decisively to safeguard the right of everyone to information and literature at the most accessible price, recognising also the great potential of digital media and communication technologies for educational purposes, including tackling the problems of illiteracy and under-achievement.

Q6 Do you agree that those electronic services that would qualify for the reduced rate will have to be precisely defined in a uniform way at an EU level or do you consider that a broad definition in the VAT Directive would be sufficient?

- a) The EPC believes that the broad definition in the VAT Directive should be sufficient. Furthermore, Member States treat the press according to their social and economic conditions as well as their cultural heritage, particular to each country. This flexibility should be maintained.
- b) In reality, books, newspapers and magazines in physical formats cross the borders of EU Member States every day to reach citizens living in other Member States without any problem. The appropriate reduced VAT rate of



the destination country is applied. Thereby, the different definitions and interpretations that the Member States currently use do not prove to be an obstacle. We consider that this model can also function successfully with regard to the electronic editions.

- c) We believe, as acknowledged by the Commission in 2007, that the main issue is to find the right balance between political and economic imperatives and to recognise that there are real and valid economic arguments for lower VAT rates in some very specific sectors⁴.
- d) Besides, the current differentiation between a “service” and a “good” in the specific case of published content is rather artificial because as previously mentioned the focus should be on the content itself and not the medium of delivery. This should be reflected in the EU VAT Directive and especially in Annex III. It is a fact that an online magazine/newspaper/book or educational material does not, at least not VAT-wise, really differ from printed publications, as they are all subject to decisions of the editor-in-chief or other similar internal decision-making processes, as well as being subject to local legislation and self-regulatory codes.
- e) Furthermore, the publisher is the producer or at least the processor of the content (both editorial and advertising), just as in the print publications. These issues also relate to the fact that the publishers employ authors, journalists and other professionally trained European personnel who pay their taxes in their operational European countries, just as their European employer publishers do as well.

Q8 Considering the need for a uniform and future proofed approach at EU level, what should be the definition of on-line newspapers and on-line periodicals in EU-law?

- a) We do not agree with the assessment that there is need for a uniform definition. The current definition, which is a responsibility of the Member States, works successfully.
- b) We should not lose sight of the fact that the main objective should be that professionally produced and published content, regardless of its means of

⁴ Communication from the Commission to the Council and the European Parliament on VAT rates other than standard VAT rates - COM(380)2007 of 5 July 2007, http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/com%282007%29380_en.pdf



support or its distribution channel, receives fiscal treatment that recognises its value and role in cultural, social and financial terms. Furthermore, we wonder how it will be possible to have a future-proofed approach beyond the content itself when we are not aware of future technological or market developments.

- c) Limitations that a newspaper or a periodical has inherently and naturally in its physical format should not be replicated, or even worse expected, in the electronic version, by imposing definitions that require a digital facsimile of the printed version. The EPC strongly believes that publishers should be in a position to take advantage fully of the possibilities that digital can offer in order to deliver the best and most complete high quality offer of quality journalism to the citizens.
- d) An online newspaper or periodical can meet the criteria of “similar product” as its core business, the professionally published content, remains the same even if some versions making use of the new technologies include further functionalities. These should not be subjected to higher VAT rates when they represent the natural development of technology and choice of distribution methods by citizens.
- e) The consultation paper itself raises the issue of the search function in the online archives of newspapers or magazines, characterising it as increased functionality. Newspaper and magazine archives are the permanent storage of records for long-term preservation on the grounds of their enduring cultural, historical and evidentiary value. Archives can be accessed in print format in national libraries. Nowadays however more and more publishers, having invested in the digitisation of their own archives, offer to their subscribers the possibility to have easy access to those records from their office or the comfort of their home. The search functionality of the online archive is made easier though technology which in no way alters the “similarity of the products” which in essence remain the same. It seems counter intuitive that instead of encouraging this easy access to historic memory there is a tendency to hamper it with higher taxation.

Q7 Considering the need for a uniform and future proofed approach at EU level, what should be the definition of an e-book in EU-law?

- a) The same reasoning as above applies also to this question. We believe that the current definitions are adequate for the digital versions as well. The creative endeavour which produced the content which we today call a book

remains the core; this essential nature does not change because of the use of technology.

- b) The same applies to the sector of academic and scientific publishing. A sector which was among the first to embrace the digital transition and nowadays, the majority of its publications are in electronic format. Furthermore, this applies to educational publishing and educational materials likewise. However, they all have been unfairly sanctioned with full VAT rates in the digital editions, placing a significant and unfair burden on users, which are often students, researchers, research institutions, libraries, and universities etc. - a sector that is perhaps the biggest contributor to the dissemination of knowledge, as well as pupils, teachers and schools.

Conclusion

- Content in digital as well as print still contains the benefits that the EU recognised in the original reasoning for reduced VAT rates. Technology has progressed and has become a significant part of our lives, giving publishers the possibility to provide citizens with new formats. This should be clearly reflected in the VAT legislation.
- Regardless of its format or means of delivery, the content itself still has the same value, be it social, cultural, educational, literary, and should therefore be treated equally. Products that are already defined and fall under the responsibility of Member States should remain this way.
- **It is clear to us that Europe should wholeheartedly support zero and reduced rates of VAT for all professionally newspaper, magazine, journal and book content, regardless of the format in which it is sold or made available.** This will be one of the ways that the EU will create the conditions for expanding the digital single market of quality content, and transposing its high levels of economic success in the physical publishing world to the fast growing digital space.

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