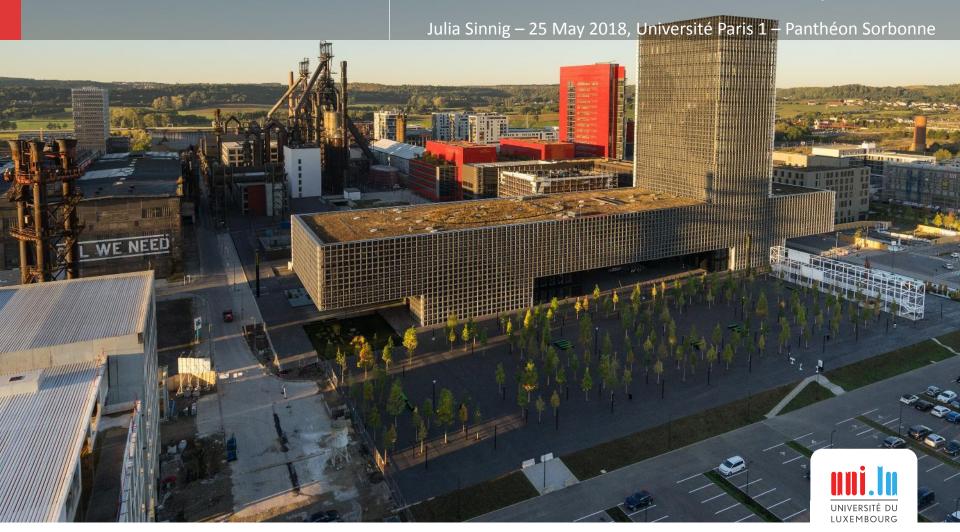
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Taxation and Big Data

The Reflection of Data-Driven Value Creation in the 2018 OECD and EU Tax Proposals





- 2018 OECD interim report: role of user data in the digitalised economy
- Location of user data
 - (Raw) data collection
 - Data processing
 - Developers
- EU Commission proposals: significant digital presence and digital services tax

Role of user data in the digitalised economy (1/2) The 2018 OECD interim report

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- Findings of the 2018 report:
 - No consensus, three different opinions
 - Foundations of the international tax system: residence and source?
 - No recommendation of interim measures
- Big data, user data, data...
 - >Still no uniform definition
- Collection, processing and use of data = integral part of digitalised business models
- Effect of economies of scope

Role of user data in the digitalised economy (2/2) The 2018 OECD interim report

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Data value cycle

- Some business models only "possible" due to exploitation of user data
- Income generation vs. value creation
 - ➤ Taxing economic rents?

Location of user data



- Place of (raw) data collection
 - Data origination
 - Users/devices = data sources
 - Geographic location possible
- Place of data processing
 - Any geographic location
- Place of the "genius" behind technology
 - Possibly residence of company/developer or permanent establishment
 - Geographic location possible

The EU Commission proposals



	Significant digital presence	Digital services tax
Tax base	Net profit taxation	Gross turnover taxation
Tax rate	National CIT rates	3%
Beneficiary	Revenue goes to MS	Revenue goes to MS
Services covered	 Services delivered over internet or other electronic network and Nature of which renders their supply essentially automated and Involving minimum human intervention and Impossible to ensure without information technology 	 Placing of user-targeted advertising on a digital interface or Intermediation services making available to users a multi-sided digital interface, potentially facilitating the provision of goods and services between users or Transmission of collected user data
Thresholds	Revenue (> EUR 7.000.000) or number of users (> 100.000) or number of concluded B2B contracts (> 3.000)	Total amount of taxable revenues (> EUR 750.000.000) and EU revenues (> EUR 50.000.000)

EU COM: Significant digital presence



- All corporations established in MS and third States
 - Specific DTC provision
 - In reality: limited scope/impact?
- List of excluded services
- Three alternative criteria for threshold
- Modified profit attribution rules
 - OECD AOA confirmed
 - "Economically significant activities"
 - DEMPE functions
 - Profit-split method

EU COM: Digital services tax



- Double taxation issues
- Place of taxation and allocation of taxable turnover between different MS
- Tax collection
- Equalising lacking CIT state revenue?
 - Fairness, equality, neutrality, ability to pay?

SDP and DST

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User location

IP addresses

Timeframe

- No sunset clause in DST proposal
- Ambitious

CCCTB

Reference in SDP proposal



- 2018 OECD report: sobering result
- Clear reflection of data-driven value creation in EU COM proposals
 - Criteria of location of that value creation in proposals → debatable
- Shift of tax revenue to market jurisdictions
- Final solution?!

Merci de votre attention!



CAMPUS WEICKER
4, rue Alphonse Weicker
L-2721 Luxembourg

Julia SINNIG julia.sinnig@uni.lu +352 46 66 44 5947

