

Ecommerce Europe's feedback to the DAC7 consultation on equivalence

Ecommerce Europe welcomes the opportunity to provide feedback to the European Commission on the [draft implementing regulation](#) aiming to set out how the EU Commission will determine whether third country's information exchange regimes are considered as equivalent to DAC7. It is key to balance the following considerations when determining the interoperability of DAC7 with third country information exchange regimes:

- **Balancing effective enforcement with proportionality:** when considering whether a third country information exchange regime is equivalent to DAC7, we believe it is important to focus on the key objective of DAC7, i.e. to enable tax authorities to effectively collect and enforce tax obligations towards EU sellers. Differences between third country regimes and DAC7 should not automatically result in a 'non-equivalent' qualification if the information collected under the third country regime still enables tax authorities to effectively enforce tax obligations vis-à-vis EU sellers. For example, the fact that a third country system does not require the date of birth data point to be collected, should not in itself be sufficient to qualify the system as non-equivalent to DAC7. Equivalence criteria should therefore not be defined too narrowly to ensure proportionality of the administrative burden placed on Platform Operators and to avoid potential unnecessary duplicative reporting requirements
- **Maximising the business benefits of 'home country' (aka 'one-stop shop') reporting:** the OECD Model Rules for Reporting by Digital Platform Operators (OECD Model Rules), envisage that platforms should be able to report on all worldwide sellers via their home country, a concept which is highly efficient for businesses. The EU Implementing Act should enable this internationally agreed principle as far as possible, while still respecting the EU Member States' right to collect data that they deem necessary for enforcement of EU resident sellers.
- **Ensuring level playing field:** Third country exchange systems that are significantly less stringent than DAC7 regarding information collected on EU sellers should not be considered as 'equivalent' to DAC7. This is important to ensure level playing field between Platform Operators. There should be no incentive for EU sellers to migrate to Platform Operators subject to a third country information exchange system because less of their data would be shared.

Points to be made in relation to Article 6:

- Ecommerce Europe believes that the criteria for the equivalence assessment should be defined more clearly. For example, the current draft is not clear whether equivalence will only be granted where the third country rules require exactly the same information to be reported for EU Sellers as that listed in all of the subparagraphs of paragraph B, Section III. In particular, is the collection of the VAT number, place of birth and EU permanent establishment information required to be collected, verified and reported for EU sellers, even though these data points are not mandated by the OECD's Model Rules?
- In case this is the intention of the draft Implementing Act:
 - We believe the EU Commission should discuss/communicate this requirement with/to the third countries currently drafting laws based on the OECD Model Rules (UK, Canada and

New Zealand), to enable them to accommodate this within their legislation and increase the likelihood of equivalence being granted in a timely manner.

- Where a third country's law follows the OECD Model Rules, will equivalence with the entire third country reporting regime be denied, so that locally-resident Platform Operators will be forced to make full DAC 7 reports in an EU Member State – noting that this may result in duplicative reporting? Alternatively, is the intention for a third country Platform Operator to split its reports on EU sellers, and report some data points (e.g. those required under the OECD Model Rules) locally and others (e.g. those incrementally required by DAC7, such as place of birth) to an EU Member State?

Points to be made in relation to Article 7

- The OECD Model Rules do not specify the form of enforcement measures to be implemented, and for example the UK does not intend to introduce any requirement for sanctions to be imposed on Sellers by Platform Operators. The EU Implementing Act should clarify whether it will require these sanctions (as set out in paragraph A of Section IV) in order to grant equivalence. If such sanctions are required in order for the UK system to be considered as equivalent with DAC7, we believe the EU Commission should inform the UK accordingly

Comments in relation to Article 8

- Article 8 specifies, inter alia, that where the third country rules do not cover the full range of Relevant Activities under DAC 7 (e.g. if the sale of goods is not included), Platform Operators resident in that third country must register in an EU Member State in order to report under DAC 7 on those Relevant Activities that are not covered by their local reporting regime. Where a single Seller carries out more than one category of Relevant Activity is it the Commission's intention that a Platform Operator should file two separate reports, in two different countries?
- Article 8 is currently missing an explanation of the practical reporting implications of the action of Articles 3 (Reportable Sellers) and 6 (Reporting requirements). Specifically, we believe additional clarification is needed on how any identified gaps between DAC 7 and third country rules will be addressed, and the extent to which Platform Operators will therefore need to prepare for partial reporting requirements in the EU (to report in the EU only on incremental sellers or data-points) or full (and potentially duplicative) DAC7 reporting by third country Platform Operators.

About Ecommerce Europe

Ecommerce Europe is the sole voice of the European Digital Commerce sector, representing via its national associations more than 150,000 companies selling goods and services online to consumers in Europe. Ecommerce Europe acts at European level to help legislators create a better framework for online merchants, so that their sales can grow further.