

Ms Ana Xavier
European Commission - DG TAXUD
Rue de Spa 3
1000 Brussels

12 April 2021

European Commission Consultation on Digital Levy

Dear Ms Ana Xavier,

Invest Europe is the association representing Europe's private equity, venture capital and infrastructure sectors, as well as their investors. Our members provide an essential source of funding for innovative businesses at key stages of their growth journey, taking a long-term approach to investing in privately-held companies, from start-ups to established firms. They inject not only capital but also dynamism, innovation and expertise. This commitment helps deliver strong and sustainable growth, resulting in healthy returns for Europe's leading pension funds and insurers, to the benefit of the millions of European citizens who depend on them.

By way of background, in 2019 alone, private equity and venture capital funds invested over €94bn into 7,900 European companies, a large majority of which (84%) are SMEs. Private equity and venture capital funds thereby play a key role in connecting providers of capital from across the EU and beyond with companies in search of financing.

We are reaching out to you regarding the European Commission consultation on digital levy, to which we have also today submitted our response. In this regard, we would urge the European Commission to take into account the following points, which we believe are key no matter what form a potential proposal on digital levy might take.

Investment funds and fund managers must stay out of scope

It seems clear from the European Commission's Inception Impact Assessment on digital levy that the initiative aims to tackle issues around digital companies. In this regard, we find it crucial to stress that neither funds nor companies in the fund and asset management industry - a highly regulated industry operating under significant and specific legal, regulatory and tax frameworks - should be considered as digital companies.

With regard to the fund itself, it is a collective investment vehicle with investors receiving interests in, rather than goods or services from, the fund. Unlike most of the activities listed in Question 33 in the consultation document, questioning what should be considered as digital activities in the context of a

legislative measure, the fund has no consumers. By their nature, the investors in funds are not consumers. The role of these investors is more akin to a passive shareholder in a company rather than a consumer of services. Furthermore, an exclusion from the scope is also necessary in order to preserve the tax neutrality for investment funds.

With regard to the managers, the fund and asset management industry is not highly digitised and is not based on the use of digital technology or intellectual property held outside home jurisdictions to enable remote selling. The industry is not heavily reliant on intangible assets or data, and user participation is not fundamental to the business models. Fund and asset managers are very much linked to their home jurisdiction, and the value provided by fund and asset management services reflects time spent by investment professionals in their home jurisdiction. Furthermore, fund and asset management services are provided to the funds or their general or managing partners, which are business entities, and therefore the customers of such services are not consumers.

Finally, an exclusion of funds and managers from the scope would also be consistent with the direction of the ongoing work at OECD level; the importance of such consistency is further elaborated on in the below.

Therefore, the activities of funds and fund and asset managers should not be considered as digital activities and should thus not be included in the scope of a digital levy, irrespective of what form it might have.

Consistency with work at OECD level must be ensured

When taxing businesses which are part of global value chains, the global aspects must be taken into account. Diverging regimes at EU and international level can be a huge challenge for businesses, and as investors in the EU economy and EU businesses, we take this concern very seriously. Innovative and digital companies play a crucial role in making the digital transition successful, and this should be supported by ensuring a sound, coherent and predictable tax environment.

Therefore, it is crucial that a potential digital levy proposal is consistent with and builds on the OECD work on Pillar 1 and Pillar 2. Having two different regimes - one at EU level and one at international level - would increase the complexity and compliance burden and the risk of double taxation. This could also lead to a situation where investments in the EU are more expensive and less attractive than in other territories, which would be to the detriment of the EU economy and the EU companies depending on those investments, in particular in the times during and in the aftermath of the COVID-19 crisis, where investments are all the more needed.

Furthermore, we find it crucial to highlight that all the thinking that has been done at OECD level around the scope must be carried over to a proposal at EU level, in particular with regard to the proposed carve outs for investment funds and managers. Significant progress has already been made in this regard, and such carve outs will be key to ensure that the industry is not inappropriately brought within scope of the regime.

As also recognised by the European Commission, it is important not to undermine the ongoing discussions at the OECD. Therefore, we urge the European Commission to ensure that any proposal on digital levy will be compatible with the work in OECD. Furthermore, in order to fully ensure consistency, we also urge the European Commission not to push forward an EU only proposal as long as work is still ongoing in the OECD on Pillar 1 and Pillar 2.

We would very much welcome the opportunity to discuss this issue with you in greater detail, and we would be happy to elaborate further on the characteristics of our industry that we have highlighted in this letter (please contact Martin Bresson via Martin.Bresson@investeurope.eu).

Yours sincerely,



Martin Bresson
Public Affairs Director, Invest Europe