

**FAEP response to the consultation on the European Commission's
Green Paper on the future of VAT –
Towards a simpler, more robust and efficient VAT system
COM (2010) 695/4
European Federation of Magazine Publishers, FAEP
Square du Bastion 1A, B-1050 Brussels
Interest Representative Register ID number: 7009022613-44
Brussels, 31 May 2011**

Introduction

FAEP - the European Federation of Magazine Publishers - is the representative trade association of the European periodical press, representing 28 national magazine trade associations from EU Member States, as well as 24 corporate members from all over Europe. In total, FAEP represents 15,000 publishing companies, turning out more than 50,000 titles per year, in print and online.

Publishing industries as a whole constitute an important economic sector in the EU employing more than 750,000 people in 64,000 companies.

The publishing sector in Europe is currently going through a crucial restructuring phase shaping the future of the press – print and digital: The digital revolution challenges the magazine sector to adapt to the digital world and led to the growing shift of European readers from print to online.

Over the last few years, magazine publishers have heavily invested in digital products in order to offer content on different platforms. The number of digital products and platforms is growing (e.g. via the Internet, mobile phones and tablets) along with the number of online readers. However, whilst many magazine websites are particularly popular, most magazine publishers have not yet found a sustainable business model that encourages investment, innovation and creativity. Most digital magazines are offered for free and online advertising revenues remain very low, meaning that digital editions need to be cross-subsidised by the printed business of publishers. Consequently the magazine sector remains financed to a large extent by the revenue stream generated by its printed editions.

In addition, restrictive business conditions, restrictive legislation and the growing influence of technological giants in the digital environment that also affects publishers' business, threaten to further reduce the return on publishers' investments in digital. Therefore the conditions for producing editorial content that educates, inspires and entertains people are becoming increasingly challenging.

At the same time the existing print business (the cornerstone of the magazine publishing industry), faces many economic challenges. On top of structural changes in the sector and the decline of circulation of the printed periodical press, the economic crisis has dramatically hit the advertising market. This has resulted in an important decline of advertising revenues

for publishers in 2008 and 2009 that has led to the shutting of titles and companies and the loss of jobs in the industry.

With these factors in mind, and in order to take into account the technological neutral nature of the press today, it is of crucial importance that the digital press benefits from the same reduced and super-reduced VAT rates as the printed press.

European press publishers think that this change needs to be introduced urgently to:

- avoid a distortion of competition between similar products distributed on different platforms;
- boost the development of digital offers of magazines,
- enable fiscal neutrality
- benefit democratic society as it will allow professional media content to be accessible to all citizens in a technological neutral way. Furthermore, this beneficial change for the development of the digital press will not damage Member States' revenues since the digital magazine sector is a new and evolving market.

Applying the same reduced VAT rates of the printed press to the digital press would be in line with the objectives of the Digital Agenda for Europe which states that the challenges of convergence between offline and digital environments should be addressed in all reviews of public policy, including tax matters¹. This approach could help boosting the digital economy, create more jobs, innovate and create new business practices and help to educate and entertain users of platforms, tablets and other mobile devices.

This thinking finds also some support within the European Commission: "We believe content should be taxed the same way, whether it is printed or on tablets", said Director General for education and culture at the European Commission, Jan Trzuszczynski².

Finally, FAEP would like to emphasize that easier consumer access to quality content is a positive result of digitisation and technological change. Consumers today should have a free choice concerning when and how they access this content (on paper, digital formats etc). The EU VAT system should not be an obstacle to this free consumer choice.

Therefore European publishers of the periodical press would like to see the future VAT strategy of the European Union along the following lines:

- 1. Maintain the possibility for the Member States to apply reduced VAT rates on the printed press**
- 2. Extend the existing reduced VAT rates of the printed press to the digital press**

However when rethinking Europe's VAT strategy from scratch – as this Green Paper invites us to do – it is worth highlighting that publishers have always opposed and continue to oppose any kind of taxation on reading. Taking into account the role of reading and the paramount importance of having access to quality information in order to have properly

¹ Commission's Communication, A Digital Agenda for Europe, COM(2010) 245, 19.5.2010, p. 9.

² <http://www.euractiv.com/en/infosociety/eu-mulls-tax-cuts-online-media-news-502035>

informed opinions – enabling citizens to participate in a democracy – it is vital to maintain a broad spectrum of available press products for literacy, learning, developing and sharing our European cultural heritage. A literate and informed population is the key component to a “knowledge society”. The highest priority for magazine publishers across Europe today is to maintain the possibility for Member States to apply reduced rates on print and to extend these rates to the digital press. The sector also considers that reading in print and digital should ideally not be taxed.

FAEP would like to respond to some selected questions of the consultation.

Q 19 Do you think that the current rate structure creates major obstacles for the smooth functioning of the single market (distortion of competition), unequal treatment of comparable products, notably online services by comparison with products or services providing similar content or leads to major compliance costs for businesses? If yes, in what situations.

THE CURRENT RATE STRUCTURE DOES NOT REFLECT THE REALITY OF THE TECHNOLOGICAL NEUTRAL PRESS TODAY

The current VAT rate structure as laid down by Directive 2006/112/EC does not take into account the reality of the press today, which can be considered as a “technological neutral press” as it provides its content to readers through its printed as well as its digital editions. By not applying the same VAT rates to digital and offline publications, the current legislation is not consistent in its approach and does not treat similar products equally. This represents a major obstacle for the smooth functioning of the single market and, most importantly, for the wide availability of press products to European citizens.

According to Article 98 (2) of Directive 2006/112/EC (consolidated version), “The reduced rates shall not apply to electronically supplied services “.

If the possibility of applying a reduced rate to printed publications is crucial for easing the access to reading to European citizens, the wording of the current Directive has to be adapted. Indeed, this wording fails to recognize the digitisation of printed magazines, the development of digital offers which attract more and more readers and the shift of readership from print to online.

Today, magazines are no longer only restricted to paper but, as mentioned earlier, form part of a technological neutral press. Magazines provide European readers with content displayed on different platforms, be it on paper, on the Internet, mobile phones or tablets.

To avoid the promotion of one platform against another, the existing reduced VAT rates on print should be extended to the digital press. A disadvantaged position for digital content is not justifiable, penalizes the development of the digital press and the achievement of a Digital Single Market in Europe. Therefore the reduced VAT rates for printed magazines should apply to both the printed and digital editions of magazines.

THE TECHNOLOGICAL NEUTRAL PRESS NEEDS TO BENEFIT FROM REDUCED VAT RATES FOR FINANCING THE MIGRATION TO DIGITAL

The extension of reduced VAT rates of the printed press to the digital press is even more important as the magazine publishing sector in Europe is currently going through a crucial restructuring phase shaping the future of the press – print and digital. This exciting and challenging time that magazine publishers are facing, which corresponds to the adaptation of the industry to the digital world, needs investment and innovation. Adapting the traditional magazine media to new technologies implies a need to rethink the whole business model. Financial, creative, innovative, educational and technical means have been, and are still being, invested in the migration to digital and the creation of a modern, diverse and plural press accessible on all platforms.

To meet the expectations of European citizens in this modern press, publishers need to continue investing in the key ingredient that made its success in the past: quality journalism. This quality journalism, which remains one of the biggest cost drivers for both the printed and

the digital press, enables publishers to fulfil their services of information, empowerment and entertainment of EU citizens in a technological neutral way. This professional publishers' content which is trusted quality content needs to be maintained.

A McKinsey study from 2010 shows that consumers consider the news press as the most reliable news sources, whether in print or online: 66% of the consumers surveyed in the context of this study said that they trust the news press in print and online, while only 14% consider other sources in the web as a trustworthy source of news.³

Crucially, professional media content complies with a set of ethical standards. The professional press therefore underlies the same ethical standards and legal obligations in print as well as in digital format and makes it so different from the non-professional digital content in terms of value it has for the reader, for the informed citizen, and for the literate population in a democratic society.

These efforts in investing in quality journalism and digital seem to be effective as, next to the printed editions that remain the core business of publishing houses, press websites are developing and encountering big success. Extremely popular, they are among the most visited websites in their national, regional or local markets. However, the popularity (unique visitors for example) does not necessarily result in corresponding revenues due to the existing barriers to monetize content in the digital world.

Developing viable online businesses is a challenging process for all publishers. Magazine publishers are still dependent on advertising revenues to fund their activities in this area as paid content online is still marginal.

This is linked with the fact that Internet users consider that online content is free. It is obviously not the case as it is costly for publishers to invest in content creation. But because of this perception, the pricing of the digital press is very sensitive and it is difficult to create paid-for content solutions.

Moreover, advertising revenue, vital for online editions, still only accounts for a mere fraction of the revenue generated by advertising in print publications, as prices are much lower online. This means that for the time being print revenues continue to subsidise digital innovations. This is clearly not a sustainable solution on the long run considering the fast and continuous growth of digital offers and the growing shift of readers from print to online. The development of a viable business model for digital magazines, including paid-for-content solutions, would be facilitated by a lower applicable VAT rate on digital editions. This is a crucial element as the risk is high that without a forthcoming tax change, magazine publishers will soon not be able anymore to finance their quality content online.

THE EU FISCAL ENVIRONMENT MUST REFLECT THE REALITY OF THE TECHNOLOGICAL NEUTRAL PRESS

For an appropriate development of the press sector in the digital environment, publishers need appropriate market and legal conditions which include among others lower VAT rates. The problems described above in structural financing of the digital press make it even more important to allow for the reduction of VAT rates so that the digital press is not placed on a weaker footing than press disseminated through traditional channels.

In the future, the accessibility of digital quality content will depend on the price: a reduced VAT rate for our digital editions is a precondition for today's and tomorrow's press to play

³ Source: "Passata è la tempesta...", McKinsey and Company, 2010

its role in the democratic society. The EU should ensure there are the economic and legal conditions that allow publishers to develop sustainable digital business models. A favourable fiscal environment would enable a more rapid adaptation to digital with the overall objective of offering better content and better services to European citizens. Lower value added tax rate is an important element for keeping a free and independent periodical press, vital pillar of a democracy.

Finally, the levy of VAT to digital magazines may place certain European press publishers at a competitive disadvantage with non-EU competitors which do not apply similar indirect taxes on their large internal markets, such as the case of the United States.

The European fiscal environment must allow the press sector to continue to innovate and to develop successful digital offers. Only then our sector will be able to provide readers also in the future with independent, free, diverse quality content from professional journalists based on sustainable business models.

Therefore European publishers of the periodical press would like to see the future VAT strategy of the European Union along the following lines:

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Q 20 Would you prefer to have no reduced rates (or a very short list), which might enable Member States to apply a lower standard VAT rate? Or would you support a compulsory and uniformly applied reduced VAT rates list in the EU notably in order to address specific policy objectives as laid out in particular in “Europe 2020”?

Magazine publishers across Europe would support each of the proposed alternatives in case magazines – in print and in digital versions – are included in the lists of products and services on which reduced VAT rates can apply: Magazines have an essential informative, educative and democratic role to play in the European society.

EU Member States have requested derogations to the VAT system in order to be able to apply reduced rates for some sectors. These requests reflect national particularities and correspond to the need of some countries to promote certain categories of goods and services. In most Member States, the press can benefit from reduced or super-reduced rates because of its cultural, social, educational role in the democracy. This derogation has to be considered as a clear incentive of the governments and must be maintained.

At present, most Member States apply reduced or super-reduced VAT rates to printed magazines and a few Member States apply a zero rate of VAT to printed magazines; and it is crucial that they are able to continue to do so.

In developing digital business models, it is a huge challenge for European magazine publishers to make sustainable, attractive offers to consumers when they are obliged to pay a standard rate of VAT (that can be up to 25%). Furthermore, print publications are price sensitive and their purchase affected by any increase in VAT, which has to be passed on by way of increased cover prices to the consumer. As stressed above, we believe that as a minimum requirement, in order not to cause further damage to a sector in transition, all Member States should have the possibility of continuing to apply the aforementioned low or zero rates in place to the content of magazines disseminated in print and of extending the same VAT rates to their digital editions.

We would like to add that we agree in principle with the approach of the current VAT Directive. Under Article 98 (2) of Council Directive 2006/18/2006 Member States have the option of applying reduced rates of VAT to the categories of goods and services listed in Annex III of the Directive (which should be implemented into national legislation). This includes periodicals and enables this way the application of a reduced or super-reduced rate to publishing activities of the printed periodical press. In our view, the current list of goods and services which can apply reduced VAT rates shall be maintained.

Nevertheless, the Directive does not allow the application of reduced rates to electronically supplied services⁴, which includes digital editions of magazines. It is absolutely essential that either this provision is changed or the list of Annex III of the Directive is extended to the digital editorial content of the press in order to take into consideration the evolution of the press from a purely printed material to a technological-neutral product.

We believe that in the light of the policy objective of convergence of physical content and digital content, an extension of the existing reduced – including zero – VAT rate applicable to digital content for magazines would be a logical and effective policy choice.

⁴ There is an indicative list of the electronically supplied services (referred to in Article 58 and point (k) of the first paragraph of article 59), set out in Annex II of the Directive. Magazines fall under this list within the scope of ‘supply of images, text and information’.

As well as making quality editorial content more accessible to Europe's citizens, the application of the reduced rate would also help providing a much needed boost to the magazine publishing sector (which is going through a challenging transitional period), and ultimately to Member States' economies across the EU. For instance, business-to-business magazines, which provide their readers with valuable content for specific professional sectors, are considered as a trusted, informative and well appreciated medium by professional decision makers, who use them as a source of inspiration for innovating and developing their activities. A wider access to these publications would contribute to an exchange of knowledge between professionals, in the end beneficial also for the European economy.

The suggested approach of applying the existing reduced VAT rates of the printed press to the digital press would also provide a good incentive for consumers to shop online and promote e-commerce. Excluding electronically supplied services such as online periodicals from reduced VAT rates does not only discourage the creation of innovative business models, but also makes attaining a 'vibrant digital market' – one of the Commission's main goals in its Digital Agenda – harder to achieve as this market faces global competition.

The lower VAT rate for the technology neutral periodical press is a simple measure to support the press and the wider publishing industry. Therefore the current reduced or super-reduced VAT rates for certain categories of goods and services should be maintained. Furthermore, Member States should be able to keep the flexibility they have and be able to apply reduced VAT rates also to digital press content.

FAEP would also like to answer jointly to questions 13 to 15 on the legislative framework.

Q13. Which, if any, provisions of EU VAT law should be laid down in a Council regulation instead of a directive?

Q14. Do you consider that implementing rules should be laid down in a Commission decision?

Q15. If this is not achievable, might guidance on new EU VAT legislation be useful even if it is not legally binding on the Member States? Do you see any disadvantages to issuing such guidance?

We believe that the approach chosen until now is the right one.

EU VAT law should continue being regulated exclusively by a Directive. An EU Directive is a strong but flexible legislation that enables Member States to apply EU VAT rules in taking fully into account their national particularities. VAT matters are a very national and sensitive issue and it is important to let Member States free of choosing their way of implementation the law in their national framework.

This is important for magazine publishers since Member States treat the press according to the national cultural heritage and to social and economic conditions particular to each country. The flexibility of applying EU VAT legislation in agreement with these national characteristics must be maintained.

The Directive option is therefore in our view the best solution and should be preferred to a Commission decision. Also any guidance on new VAT legislation coming from the EU as well as the introduction of a Directive with full harmonisation should be avoided in order to let the biggest possible flexibility to the Member States.

Contact details:

Mr. Max von Abendroth
Executive Director
FAEP, the European Federation of Magazine Publishers
Square du Bastion 1A
1050 Brussels
max.abendroth@faep.org
+32 3 536 06 04