



29.5.2018

NATIONAL PARLIAMENT REASONED OPINION ON SUBSIDIARITY

Subject: Reasoned opinion of the Danish Parliament on the proposal for a Council directive laying down rules relating to the corporate taxation of a significant digital presence
(COM(2018)0147 – C8-0138/2018 – 2018/0072(CNS))

Under Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, national parliaments may, within eight weeks of the date of transmission of a draft legislative act, send the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why they consider that the draft in question does not comply with the principle of subsidiarity.

The Danish Parliament has sent the attached reasoned opinion on the aforementioned proposal for a directive.

Under Parliament's Rules of Procedure the Committee on Legal Affairs is responsible for matters relating to compliance with the subsidiarity principle.

THE DANISH PARLIAMENT
REASONED OPINION

of the European Affairs Committee on the Commission proposal regarding taxation of the digital economy

The European Affairs Committee of the Danish Parliament has examined the Commission's proposal for a Council directive laying down rules relating to the corporate taxation of a significant digital presence (COM(2018)0147) and its proposal for a Council directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services (COM(2018)0148).

A majority of the committee's members (representatives of the Danish People's Party, the Liberals, the Liberal Alliance and the Conservative People's Party) believes that proposals of this kind are not compatible with the subsidiarity principle.

With regard to the issue of whether the Commission's proposals are consistent with the subsidiarity principle as laid down in Article 5 of the Treaty on European Union, the majority questions the Commission's justification of why such measures can be better achieved at European level than they can at national level. The parties concerned believe that Denmark should insist on the principle that tax policy lies outside the remit of the EU.

A minority of the committee's members (representatives of the Social Democrats, the Red-Green Alliance (Unity List), The Alternative and the Socialist People's Party) believe that the proposals in question are in line with the subsidiarity and proportionality principles.

Political statement

Members of the committee representing the Social Democrats, The Alternative and the Socialist People's Party note that digital companies, despite generating profits running to billions, pay astonishingly little tax. For example, a previous committee response revealed that 25 of the largest companies pay only DKK 109 million in Danish corporation tax. This is no more than the corporation tax paid by a single company, e.g. Aalborg Portland. We find ourselves in a situation in which, although subject to the same tax legislation, companies are in practice treated differently depending on whether or not they chose to establish themselves as primarily digital companies. This is due to the fact that corporate tax legislation, the basic principles of which are almost 100 years old, does not adequately encompass the values generated in our increasingly digital era. On this basis, the Social Democrats, The Alternative and the Socialist People's Party believe that there is every good reason to look for new ways of levying tax on the digitised economy.

Moreover, the Social Democrats, The Alternative and the Socialist People's Party share the Commission's assessment that a common initiative throughout the internal market is required to ensure that the regulations regarding significant digital presence are applied directly by and harmonised in the European Union with a view to securing a level playing field for all the Member States, as well as legal certainty for taxpayers. It is therefore not realistic to expect individual Member States to resolve the fiscal challenges presented by the steadily increasing

digitisation of the economy.

Finally, the Social Democrats, The Alternative and the Socialist People's Party agree with the central principle in the proposal, i.e. that, if the digital economy is to be taxed more fairly, taxation should, to some extent, be shifted from profit to turnover.

The committee members who represent the Unity List note that they wish to see existing tax instruments modernised with regard to the digital economy, including measures regarding permanent domicile, so that they take developments in the digital economy into account. The Unity List is therefore essentially positive about initiatives taken in this direction, including those under the auspices of the OECD and EU. The Unity List believes that it is possible to develop a model for taxation of the digital economy that complies with the subsidiarity principle, but that this is ultimately a matter that should be addressed in the light of the specific model adopted. For the Unity List, it is imperative that the solution does not create an EU tax yielded to the EU, but digital tax revenues that will be paid into individual Member States' coffers. The Unity List has yet to address individual aspects of these proposals in detail. However, it essentially believes that they do not contravene the subsidiarity principle.

Erik Christensen
Chair, European Affairs Committee of the Danish Parliament