REUTERS INSTITUTE for the STUDY of JOURNALISM

Policy Brief

Content taxes in the digital age

Issues in supporting content production with levies on ISPs, telecoms, search and aggregator firms, and digital products

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February 2014

Content taxes in the digital age

This policy brief is the result of a workshop which brought together leading regulators, industry representatives, policy advisors, and scholars from across Europe to discuss proposed taxes designed to raise funds for news, television programming, and film production, as well as helping legacy companies innovate or restructure their enterprises to become more competitive and sustainable in the digital age.

The measures discussed in this report have been suggested to help compensate news organisations for lost revenue related to the emergence of digital media and to improve financing of domestic audio-visual products. This policy briefing assesses the approaches and lays out issues and challenges as well as the implications associated with such proposals and their implementation.

Context

In Europe and beyond the digital revolution of the last twenty years has led to a transformation in how print and audio-visual content is both produced and consumed.[1] While this digital revolution has brought considerable benefits, it has also created challenges to traditional content creators and the means by which they are financed.[2] In particular, the rise of content aggregators, online search firms, and social media enterprises has severely disrupted the advertising based business models of existing print and broadcast news organisations. Moreover, the development of notebook computers, tablets and smartphones, and connected television has created new screens in which all kinds of content—including television programmes and streams, motion pictures, recordings, and a range of other Internet-available content are now consumed.

The increased competition between 'old' and 'new' media would be welcomed if it were leading to better and more varied content, but this is largely not the case. Entrants such as Google, Yahoo!, Facebook, and Apple, while deriving huge advertising and product sales revenues, produce little news and audio-visual content themselves. Rather, such firms rely on content created by others—primarily existing filmmakers, recording companies, broadcasters and print news organisations. Some of these firms provide direct compensation to content creators, yet many do not. This has been seen as a particular problem when it reduces the resources available for news production.[3]

Two interconnected questions stand out as needing sustained attention if European society is to continue to enjoy the social, political, and cultural benefits that a high quality and diverse news media bring. First, how to encourage the creation of a broad range of high quality content in an increasingly digital environment? Second, how to ensure that those who generate this content are fairly rewarded?

A number of potential solutions have been suggested including copyright reform, direct government subsidy, and alternative ownership structures.[4] One solution that is receiving considerable attention is the introduction of content taxes and levies that would be used to

compensate content creators. A number of European nations have been asked to consider taxes or levies on internet service providers and telecom operators, search engine firms and content aggregators, and technologies such as tablets and smart phones, in order to compensate existing content creators and create incentives for new entrants into the digital marketplace.

The impetus for new or extended taxes and fees come from different loci. Efforts to find new revenue for motion pictures are primarily being driven by ministries of culture trying to replace funds that have been cut from government budgets. Attempts to find additional funds for public service broadcasting are being promoted by existing and potential recipients of those funds and sympathetic parliamentarians. Campaigns to use taxes and levies to benefit news providers are being promoted by newspapers' associations, scholars, and journalists themselves. In general, those approaching remedies at the national level suggest that such taxes and levies would allow policy makers to address concerns of domestic stakeholders and respond to unique local cultural conditions. Europeanists, however, prefer an EU-wide solution that does not create differences in markets or potentially lead to tax competition between member states.

While these proposals, both at a national and European level, have generated considerable interest and controversy there have been little sustained research into their possible impact or what their implementation would require. This report provides an overview of the arguments for content taxes and levies, experience from previous application of such measures, the nature of recent proposals, and an assessment of the issues that industry, policymakers, and scholars will need to take into account when considering them.

Content taxes overview

The term 'content tax' is a catch-all description for ways to raise revenue for the production or distribution of original content. Currently, the content taxes proposed to support news production take one of two forms: either a 'levy' where funds are collected and then redistributed directly to content providers (usually through a collecting society or television licence fee collection agency) or a 'tax' where revenue is collected and distributed by government.[5] Such levies and taxes have three frequently cited advantages:

- Accessibility – by providing an alternative revenue stream content organisations will have less need to introduce 'pay-walls' or more stringent copyright protection of their work thus making it more widely available.
- Fairness – content taxes are said to provide greater equity among and between media organisations by introducing a tax or levy onto those who benefit from content production, but do not support it financially.
- An alternative to advertising revenues from content taxes would reduce producers' dependence on advertisers and open opportunities for more innovative content or content that is critical of dominant elements in society.

Existing and previous content taxes
Alongside these three asserted benefits of content taxes, a frequently-cited advantage is the long and, at times, successful history of their use supporting content production in Europe. In addition to television and radio license fees contemporary advocates of content taxes frequently reference the previous or continuing use of cinema admissions levies, private copying levies, and taxes on broadcaster revenues.

BROADCAST LICENCE FEES: Television and radio licence fees are widely used in Europe and beyond as a way to raise funds for public service or state broadcasting. Television viewers thus pay all or some of the costs of programme production and broadcast operations.[6] When such fees were first established, broadcasting was not seen in the same way as other social services and actual users were asked to directly fund broadcast services. Collection is made through a number of methods including fees levied on households with television sets that are collected by public authorities and taxes placed on electrical consumption that are collected by energy companies.[7]

Because more viewing is switching to screens other than television, support is being sought to place levies on alternative technologies such as computers and smartphones. This raises the question whether it makes sense to apply such a levy to only some means of distribution or whether other form of funding might be more appropriate in the converged world of media and communication services.

CINEMA ADMISSIONS LEVIES: After the Second World War, and in response to the growing dominance of the U.S. film industry, a number of European nations including France, Britain, Italy, Belgium, and Sweden, introduced taxes on cinema admissions as a means to boost their domestic film production.[8]

Introduced in 1948 the French taxe spéciale additionnelle (TSA) is the most famous of these cinema levies and is credited with helping France develop a large and self-sustaining film industry. Today TSA stands at 11% and is accompanied by a similar tax on video sales and rentals.[9] The revenue raised from TSA is primarily used to fund the Cinema Support Fund which redistributes the TSA revenue to producers whose films were made in France and in the French language with the amount each producer receives calculated on the basis of box office receipts.[10] Despite its success to date, TSA is an increasingly ineffective revenue tool in a world where films are often consumed on PCs and mobile devices rather than in cinemas. Moreover, the funding model TSA supports has been criticized for being highly defensive; favouring existing successful production firms as well as failing to incentivize export orientated film-making.[11]

Less well known, a similar cinema admissions tax was also introduced in Britain in 1950. Formalised in 1957, the so-called 'Eady Levy' added a charge of 1/4d. to cinema tickets with the receipts going to the British Film Production Fund. As in France this fund redistributed levy revenues to films which had been produced and made in Britain. The scheme was notable for its success in attracting American film production to Britain in the 1950s and 60s—including the James Bond and Beatles franchises—but was less successful

in nurturing British film talent. The scheme was wound up in 1985 as cinema admissions fell and evidence suggested the bulk of levy receipts were going to those producers who needed help least.[12]

Norway applies the levy to video sales and rentals and is considering expanding it to other means of video distribution.

PRIVATE COPYING LEVY'S (PCL): First introduced in Germany in the 1960s, private copying levy's (PCLs) are special levies (in addition to any sales tax) charged on the purchase of particular types of media and copying devices. The levy is an attempt to provide fair compensation for music copyright holders for the private copying of protected works. Charges on blank media (CDs, DVDs, tapes, memory sticks, and external hard drivers) and copying technology (VCRs, DVDRs, set top boxes,) are primarily redistributed to rights holders through collecting societies. Adopted in Japan, America, and Canada, twenty-five EU members also employ PCLs—the exceptions being the U.K., Malta, Cyprus, and Ireland—which produce about €500 million annually.[13]

Initially considered a feasible and fair means of compensating rights holders both morally and economically, today PCLs are viewed as increasingly anachronistic in the digital age. First, in terms of fairness, PCLs do not take into account the wide variety of non-copyrighted material stored on blank media, particularly external hard drives, nor the legitimate copying of material licensed using DRM mechanisms.[14] Second, the efficacy of PCLs is being called into questions as more content is either streamed or stored 'in the cloud' and cross-border flows become normal.[15]

There is also concern about the efficiency in which such levies are handled because they often entail high administrative and compliance costs that significantly reduce the amounts that reach those who created content.

PRIVATE BROADCASTER LEVY: Given the frequently large revenues of private television and radio broadcasters some European nations have attempted to tap their success as a means of funding other cultural content, in particular Public Service Broadcasters (PSBs).

In Finland, between 1999 and 2013 a levy on private broadcasters' turnover—calculated on a progressive scale—was used to provide revenues for the State Television and Radio Fund.[16] Along with supporting broadcasting regulatory functions this fund also financed the nations' PSB, the YLE organisation, which in turn agreed not to run advertisements on its channels. A similar scheme was also introduced in Estonia when the nation's PSB (ETV) voluntarily gave up advertising in exchange for financial compensation from the nation's commercial broadcasters. The scheme however was a failure as the commercial broadcasters defaulted on their payments.[17] By contrast, following proposals in 2008, France has successfully transitioned its television PSB funding to an advertising free model during peak times by imposing a 3% tax on advertising revenue from commercial providers and adding additional state support to meet any shortfall from lost advertising

revenue.[18] Moreover, an additional 5.5% tax on commercial TV broadcasters goes towards the French Cinema Support Fund.[19]

As the varied introduction and removal of broadcaster levies reveal, the merits of such a content tax are highly debatable. Within a well-developed media market they offer the potential to generate significant revenues but are nonetheless subject to considerable fluctuation as the market for advertising alters. Indeed, the general trend towards online advertising and the growth of video-on-demand services such as Netflix has called into question the long-term viability of relying on such a funding mechanism.

Proposals for new or reformed content taxes

A number of content taxes have been proposed in response to needs to update existing content taxes for the digital age and growing fears about the funding models of the press and other advertising supported cultural products.

News aggregator tax

News aggregators are websites or apps which present news content to users based on pre-defined preferences. These sites, such as Google News, Yahoo! News, and the Huffington Post, generate large advertising revenues but do not produce much of their own content and instead collect stories from other news organisations. As a result of this perceived injustice and the supposed 'churnalism' it has produced a number of proposals have been made to 'tax' such aggregators. The most prominent of these proposals was contained in the 2010 *Creation et Internet* ('Zelnik Report') proposals to the French cultural ministry.[20] Referred to as the 'Google tax' the Report envisioned a tax of one to two percent on revenues generated by displaying adverts to users in France.[21] This, the report suggested, would largely affect only the largest web-portals (Google, Yahoo!, MSN, AOL) and could yield between €10m to €20m yearly to be used on funding the press. Described in less detail, a similar proposal was made in a 2010 policy study funded by the Carnegie UK trust and headed by Geoff Mulgan, former director of policy at Number 10.[22] With the continued growth in online advertising, which in 2012 overtook newspaper advertising, such a tax would likely continue raising revenue well into the medium term.[23] Indeed, Google alone generated €15.5bn in revenue from its European operations last year.[24]

Issues to consider:

- Distribution Method: Revenue generation is necessarily only half of the equation. New mechanisms to distribute the revenue will also be required, posing questions of the extent of government intervention in the media and how to share revenues within and between news organisations.
- Technical Feasibility: In order to succeed such a system would require websites carrying advertising to both collect, collate, and distribute information on users' physical location. Both the technical feasibility of this as well as the willingness of websites to do so is questionable. Furthermore, identification of IP addresses and users in networks are protected by privacy rules at the European level that would need to be addressed.

- Fluctuating Revenue: As was the case with taxing television broadcasters, revenue from this measure would necessarily fluctuate with the fortunes of the advertising market as well as potentially providing the least revenue (during recessions) when news organisations need it the most.
- Equity: There is the likelihood that news aggregators and web portals will simply pass on the cost of the levy to advertisers. Moreover, a tax on online advertising would affect all advertising not simply those adverts connected to news content.
- Policy Conflict: Advertising is currently taxed in accordance with existing rules on VAT and income taxation and this essentially creates a new tax on aggregators because of the advertising they generate; news organisations and media regulators are deeply concerned about the market dominance of large search engines, especially Google, and this type of measure might prevent smaller players from entering the market.[25]

Tax on ISPs

An alternative approach is to tax Internet Service Providers (ISPs) either on a per-subscriber or turnover basis. The rationale behind this proposal is that ISPs such as BT and France Telecom indirectly benefit from content generation because it acts as a driver for internet connectivity. Unlike a tax on news-aggregators this revenue would both be relatively easy to collect and would fluctuate less. As a result, a number of proposals for taxing ISPs have emerged both as a means for generating revenue for PSBs as well as for press support. Indeed, as of 2008 France collects a small levy primarily from ISPs to fund the development of public service electronic content. Moreover, opinion research undertaken by the UK's media regulator Ofcom suggests that the concept of such a levy—when used to fund PSBs—is potentially popular.[26] As with a tax on online advertising such a measure would likely generate considerable revenue. In 2012 European members of the OECD[27] recorded over 137m broadband connections and as such a hypothetical subscriber levy of €5 would therefore raise over €685m.[28]

Issues to consider:

- Distribution Method: As with all content taxes a suitable collection distribution method would need to be devised that not only rewarded existing content providers but provided incentives for new entrants.
- Equity: As with taxing online advertising the costs of this measure could easily be passed directly onto consumers. Moreover, those consumers who do not read online news, pay digital subscriptions, or browse the web infrequently, will be affected.
- Policy Conflict: Across Europe governments are seeking to increase broadband penetration as a means to boost economic growth, a tax on ISPs revenue might reduce investment and a subscriber levy might harm uptake.
- Long term Viability: With the growing deployment of high speed cellular connections across Europe taxing fixed-line ISPs may offer only a temporary revenue stream.

Telecoms tax
Given the increasing numbers of smart phones, mobile internet dongles, and tablets able to connect to cellular networks an alternative or complementary approach to revenue raising is to tax mobile telecommunications. As with ISPs the rationale behind such a measure is that content produced by others generates demand for cellular services. Similarly, like an ISP tax this could be applied to telecommunications firms either on a per-subscriber or turnover basis or directly to their customers as an extra item on bills. However, in contrast to fixed monthly ISP charges mobile customers are usually billed on the basis of how much data they use. If applied on this basis a telecom tax could potentially benefit from greater fairness in terms of the amount of content that is consumed.

Issues to consider:

- Distribution - The same questions of distribution arise for this as with all measures.
- Equity – Similar issues of hurting consumers who pay for content or do not view it arise as does the possibility of levies on turnovers being passed directly to customers; also of concern are whether such taxes would apply similarly to newer telco providers such as Skype.
- Policy Conflict – unlike fixed-line ISPs which require monthly billing, considerable computing equipment, and a permanent address, mobile telecommunications is a flexible and popular means of accessing the internet particularly for poorer customers.

Device levies
Given that device manufacturer's, like ISPs and telecommunication companies, indirectly benefit from content creation a number of proposals have been made to introduce a levy onto internet connected devices. Calculated as a percentage of the purchase price the levy would be included in the overall price of devices such as PCs, smart phones, tablets, e-book readers, games consoles, and connected TVs. Proposals for distributing such a levy have taken the form either of compensating for private copying, as in France, where the scheme would replace lost revenues from the blank media levy or funding content creation more generally through government subsidy. To some, because major device makers like Apple, Microsoft, and Amazon also operate closed app eco-systems the levy appears doubly beneficial.

Issues to consider:

- Future Proofing: An increasing range of devices are now connected to the internet, from lights to door locks, unrelated to the consumption of content.
- Equity: An increasing amount of content, particularly on smart phones and tablets, includes DRM thus negating the need to compensate for private copying.
- Policy Conflict: In common with proposals for placing levies on internet connectivity such a levy may harm internet adoption.

Conclusion

As this briefing has shown 'content taxes' do have a number of advantages when it comes to funding the production of news and other content, particularly in terms of the potential revenue they might raise. Content taxes are not particularly novel in Europe having previously been used to fund the film industry and public service broadcasters as well as providing a means to compensate music rights holders. However, when considering their application to the digital environment and generating funding for news production a number of perennial issues emerge for industry, scholars, and policy makers.

From whom?

As with previous content taxes current proposals are targeted at raising revenues from different groups: consumers, advertisers, device manufacturers, and new media enterprises. In order to ensure the equity of proposals greater research is required to identify who benefits from the content created by others and by how much. It also needs to be determined whether a new tax liability is being created or whether it is a transfer of a previously existing liability to another party. Similarly, research is needed to determine if content taxes directed at industry will simply be passed on to customers, which would thus force them to pay twice if they pay broadcast licence fees or otherwise pay for subscriptions to content. Significant questions need to be asked as to whether funds raised through taxes and levies should be directed to producers or consumers (particularly those with limited resources to acquire paid content).

Points of collection

A significant issue involves the most appropriate point at which to collect taxes and levies. Should it occur at the point of sales of technologies (physical or online retailers), at initial infrastructure gateways (such as telcos or ISPs), at content search and aggregation services, or direct from consumers? What are the implications of these on demand and consumption? If the new tax is applied at the moment of contract agreement would it be possible to apply different tax rates depending upon private or business use of the service?

Distribution and innovation

Content taxes provide a revenue stream, but not the solution for how to distribute revenue successfully. The example of cinema admissions taxes and private copying levies—where funds are distributed on the basis of past success—though easily comprehensible demonstrate how such schemes can be manipulated and serve existing players rather than incentivise innovation. In order to ensure a diverse and plural news, media policy makers must always examines how to distribute funds alongside how to raise them. In particular if these taxes are designed to compensate those whose content is accessed for free the issues of how, or if, to distribute funds to content providers that have erected pay-walls requires attention.

Sustainability

Revenues from previous content taxes based on levying the medium on which content is consumed—such as blank CDs and cinema tickets—have fluctuated considerably as technology has changed. Similarly, considerable fluctuations have in the past occurred

when looking to target broadcasters who rely on advertising revenue. When considering future content taxes policy makers and scholars thus need to consider how proposals that appear sound today may rapidly become outdated. In looking to find answers issues such as how to change content taxes rapidly or combine these with other more permanent means of support need to be taken into consideration.

Policy conflict

Given the widespread policy desire to increase the penetration of high speed internet, whether in the form of fixed lines or wireless, the question of the effect of content taxes on internet uptake needs to be considered and, if a negative effect is produced, what remedies might be needed. Similarly, questions of how content taxes will interact with other measures to support the media—particularly the drive to encourage plurality in search and online advertising—needs investigation. Further questions about differences in how offline and online products are treated in terms of taxes, levies, and supports also need to be addressed. What are the implications of different VAT rates for physical and virtual content? Should physical and digital media content and advertising be taxed similarly and what are the implications of doing so or not doing so? Also needing consideration is whether it is contradictory to have lower tax rates promoting broadband use and digital content and then place a new content tax on either providers or consumers? Is it reasonable to have a low or zero VAT rate for print media at the same time as it is being overtaken by online media—thus effectively reducing the value of the exemption? Does this raise the desirability of introducing low or zero rate VAT for online news or other socially useful content?

An international problem

The nature of the internet means that even if content taxes are introduced in Europe global users could continue to enjoy the benefits of content produced by others without providing compensation or support. As a result questions of whether European consumers and advertisers will simply be subsidising non-European internet users needs examination as does the potential for global agreements on content taxes.

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