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Abstract

The European Union (EU) wants to finance part of the EU budget with a European tax which citizens would pay directly to the Union. One option is a communication tax. After a brief view of the finances of the EU and the history of the idea of taxing communication, the note states the criteria used in selecting a EU tax. After an assessment according to the criteria, the article concludes that at this moment a European internet communication tax is not a viable option. For the citizen, it is a visible and equitable tax that does not distort economic decision-making. However, it makes hardly any sense from the point of view of the other budgetary, efficiency, and political criteria. To reform this situation, an EU policy on information and communication technologies is planned, including the dedication of resources to an EU-wide infrastructure and digital networks, which could make taxation of communications at the EU level a more feasible option. However, the technical aspects of taxing the Internet and other media – which are, at present, hardly discussed – may still prove to be significant barriers to such a policy.

KEYWORDS: Internet communication tax, EU budget, own resource

Introduction

In July 2011 the European Union (EU) started decision making on the multiannual financial framework (MFF) for the period 2014–2020, based on a proposal by the European Commission (2010a; 2011a). One of the EU's goals in view of the EU budget has always been to supply itself with new own resources through a European tax. These taxes, paid directly to the Union by citizens, and not requiring any subsequent decision by national authorities, are required to make the Union less dependent on the direct contributions of Member States. With an EU tax, too, a direct link between citizens and the EU is wrought. Over the years, the Union has evolved from a bond between states to a bond between states and the citizens thereof. One proposal to finance the budget that has cropped up many times over the years is to tax communication services. The EU thought first of taxing telephone landlines; a more recent idea of the chairman of the European Parliament's budget committee, Alain Lamassoure, has been to tax each email by €0.00001.

This research note investigates the viability of an Internet communication tax as a tax to finance the EU budget.¹ Technically the communication taxation mechanism and hence its specific economic impact have not yet been addressed by the Union. The next section provides a short introduction to the history and present problem of the EU's own resources. An outline of the history of the idea to finance a part of the budget through a communication tax is presented next, followed by a discussion on the suitability of taxing Internet communications services as a new own resource.

The Own Resources of the European Union

At the time of the EU's founding in 1958, it was financed by direct contributions from its Member States. The EU has always sought, however, financial sources that are separate and independent of the Member States. The EU, indeed, eventually got its own resources, being financed in the early 1980s by agricultural

¹ The tax is meant to finance the budget of the European Union, and not to help to finance the possible fiscal debt default of some Member States. Another candidate tax, however, the Financial Transaction Tax (FTT) is mentioned as a possible means to finance the budget as well as the fiscal debt of Member States. The use of an FTT for the last purpose is motivated by fact that the financial sector partly caused the current crisis and has the deep pocket to pay for it: this cannot be a reason for a communication tax. The main reason against using a communication tax for this purpose is that to finance fiscal debt through a communication tax would stifle the creation of one internal communication market with a free flow of ideas, since the amount involved would be huge (the Greek debt alone being about three times the whole EU budget). A communication tax is likely to have to furnish about 20 percent (€25 billion) of the EU budget.

levies, customs duties, and a percentage of a harmonized value-added tax (VAT) base. However, as a result of a growing budget and dwindling custom duties because of free trade, only a quarter of the EU budget is currently financed by own resources; the revenues are mainly from Member States' contributions, at about 1 percent of their gross national product (GNP). The EU budget for 2011 is €124 billion.

A disadvantage (from the EU's point of view) of direct contributions from Member States, however, is that it encourages them in so-called *juste retour* behavior—they look at what they give to the Union, and what they get in return (Richter 2008). This results in a stifling of expenses that have a real added value to the EU as a whole, for example, energy security, European infrastructure, and a knowledge-led service economy. The bulk of the EU's current expenses, almost 80 percent, is represented by agricultural subsidies and income redistribution among Member States. To curtail the Member States' focus on their net contributions, the EU wants new, so-called, "true" own resources, supplied through a European tax, an idea endorsed in studies by the European Commission (1998; 2004) and the European Parliament (1997; 2007; 2009). A communication tax has nearly always been mentioned as a possible candidate tax, as recently as 2009 (European Commission 2009).

From a Fixed Tax on Telephone Landlines to a Tax on Email

Communication charges as a source of EU revenue were first mentioned in a 1997 study and later in a book by Begg and Grimwade (1998).² The study was used in a report by the European Parliament (1997) in which communication charges were also mentioned as a possible new source of revenue. Given that the communication sector had profited in general from the creation of a single internal market, a communication tax of a fixed amount per telephone line seemed reasonable to the Parliament. The tax would, if introduced, be clearly identified on the bills paid by consumers, and raised at the operator level. This communication tax was the Parliament's second preference as a possible new own resource; the Parliament's preferred option (based on the 13 it chose to consider) was for consumers to pay a portion of the existing VAT directly to the EU.³ A tax

² This tax is meant to become a new own resource. It has nothing to do with the need of adapting existing tax regimes, by a so-called bit-tax because of growing intangible global information transactions (HLEG 1997).

³ This EU VAT is not to be confused with the present EU VAT-based own resource. The first is a contribution from consumers to the EU, which appears on every receipt. The latter is a statistical aggregate; the Member States pay part of their contribution to the Union on this basis. Other taxing options, with a far lower rating, were a European personal income tax, a European

on telecommunication services also came up as the second preference on a European Commission (1998) list of possible taxes a year later. The perceived advantages were its visibility to citizens, and revenues that were correlated with GNP growth and consistent with the equity rationale of proportional taxation. It was estimated that, if carried out, it would provide 10 percent of the EU's budget through a tax of ECU 40 on each telephone line.

Subsequent studies undertaken by the European Commission (Begg et al. 2008; Cattoir 2004) and European Parliament (2007) also make mention of a possible communication tax. However, it had become clear over the intervening years that telephone landlines were not the future, and attention shifted in these studies to the Internet as a potential tax base. They emphasized that the distortion on economic decision making would be minimal, and that because of the growth in communication, revenues would be substantial. Alain Lamassoure, MEP and rapporteur for the budget, provided the most concrete suggestion. He considered taxation of email to be the next obvious step in an economic evolution: "In the agricultural era, we invented land tax, and in the era of commerce we invented customs taxes. Since we are now in the digital era, our system of taxation should reflect that change." He suggested a 1.5 cent tax on SMS messages and a tax of €0.00001 levied on each email sent (Beunderman 2006).⁴ With the tax set that low, it could safely be predicted that (as emphasized in the above studies) the distortion on economic decision making would indeed be minimal, and that no citizen would change their behavior as a result of the tax. In the study by Begg et al. (2008) the Commission also emphasized the low price elasticity of demand for mobile telephone, implying that consumers, as was intended by the Commission, would pay the tax.⁵

The reactions to Lamassoure's proposal were, however, overwhelmingly negative: both from the general public and Internet users, as well as from the phone companies and Internet service providers (ISPs)—the companies that would be most affected by being turned into tax collectors. The Secretary General of the European Internet Service Providers' Association, Richard Nash, commented that it would fly in the face of principles the EU had been trying to support in order to encourage technology growth (Crampton 2006). Mark Smith, a spokesperson for the GSM Association, which represents phone carriers,

corporate income tax, a CO₂/energy tax, excise duties on tobacco and alcohol, and printing of banknotes by the European Central Bank.

⁴ Given the number of SMS sent in the Netherlands in 2009, the EU revenues from the Netherlands would have been €130 million (Opta 2009). The number of emails sent worldwide, including the 40 percent that are spam, exceeded 60 billion a day in 2006 (Crampton 2006).

⁵ Given that the information and communication technology (ICT) sector is directly responsible for 5 percent of European gross domestic product (GDP), with an annual market value of €660 billion (European Commission 2010b) it is highly unlikely that the tax (probably about €25 billion) could be shifted to the ICT sector; the sector is simply too small to bear the burden.

commented that the tax would disproportionately affect those least able to pay, i.e., the young (Crampton 2006). Oxford University Professor of Internet Governance and Regulation, Jonathan Zittrain, also observed that since the usefulness of a communication network increases for every user with each new user added, it is advantageous for governments to subsidize—not to tax (Crampton 2006). However, given it is also possible to see the tax as a potential means to control spam, some technology advisers have also suggested that senders should pay on a graded scale: friends should not pay to send an email, for example, but those who do not know the recipient, such as companies that send promotional email, should indeed pay (Crampton 2006).

The Criteria for a Communication Tax

The criteria used by the EU to evaluate a new EU tax can be summarized as budgetary (sufficiency; stability); efficiency (visibility; operating costs; efficient allocation of resources); equity (horizontal and vertical; fair contributions of the Member States); and political (consensus among Member States; upholding of Member States' fiscal sovereignty; does an EU tax create a Leviathan?). As emphasized by the European Parliament (2007), any new EU tax must not increase overall public expenditure or the tax burden for citizens. So should a new system allocate part of a tax directly to the EU, an equivalent reduction would need to take place elsewhere. While the EU is currently considering some well-developed options for an EU tax (such as an EU VAT), other options, such as a communication tax, are still at an early stage of development. The technical aspects of a communication taxation mechanism, and hence its specific economic impact, have not yet been addressed by the Union.

General Assessment

The first problem in assessing a communication tax as a new own resource to finance the EU's budget, is that the EU has come up with an endless list of criteria to be fulfilled by any new European tax. While these criteria have to be reconciled with each other for an overall result, the problem (and one the EU is well aware of) is that no tax can fulfill all the required, and often contradictory, criteria. The biggest problem is the quality of the legislative process.⁶ Quality is a matter of legality (Voermans 2009, 393), but it is also related to the legislative process

⁶ See the ongoing Better Regulation project initiated by the European Commission in 2001 (http://ec.europa.eu/governance/better_regulation/transp_eu_law_en.htm).

(Radaelli 2004). We therefore need to look at the mechanisms by which the social process and the pertaining content of the proposed tax are guaranteed: do all parties participate in the process and can their expectations be fulfilled? These qualities are impossible to fulfill with the EU's current shopping list of criteria, and the probable result will be an ad hoc political choice. However, for a rational discussion to take place, and in order to fulfill the quality demands of national and international legislation, a manageable list of criteria is necessary.⁷

The second problem is that Member States interpret a European tax as a loss of fiscal sovereignty. It is for this reason that the European Parliament (2007) emphasized that "fiscal sovereignty will remain with the Member States who might, however, authorize the Union, for a limited period to be revoked at any time, to benefit directly from a certain share of a tax." From an economic point, however, the eternal socialization of an asset's return is the same as the socialization of the asset itself (Sinn and Feist 2000). *Mutatis mutandis*, the same goes for the temporary pooling of taxation revenue.

Besides these two principal problems, there is the practical problem of the toughness of the procedure required by the Lisbon Treaty (2008) in order to introduce a European tax. Not only does the European Council have to decide unanimously; the Parliaments of all 27 Member States have to agree too. Belafi (2006), however, indicates the possibility of an exchange; i.e., although some Member States do not like the idea of a European tax, they could change their opinion if something changed in their interest on the expenditure side. For example, France once fiercely opposed the introduction of EU custom duties and agricultural levies, which it interpreted as a loss of fiscal sovereignty. After several years, however, their biggest interest became the common agricultural policy, which was subsidizing French farmers in particular. As a result of this, France reversed its opposition to the introduction of the EU's first true own resources.

Specific Assessment

In all the relevant studies (European Commission 2004; European Parliament 1997), the real-life visibility (i.e., transparency) of a communication tax to consumers is emphasized. Remember the previously mentioned overwhelming massive, negative, reactions by Internet users and providers to Lamassoure's idea for a small tax on a very large number of emails. Rationally, for a tax of €0.00001, at least no consumer should be worried; it would also come down to a very small

⁷ See, for example, Heinemann, Mohl, and Osterloh (2008) and Begg (2011) for suggestions on how to tackle the problem.

tax on Internet businesses. This too gives the reason for the economic efficiency of an email tax: it does not distort economic decision making. As far as the growth in yields and equity go, Begg and Grimwade (1998) have stated that because telecommunication services are highly correlated with expanding economic activity, the tax could be expected to generate growing yields. At the personal level, it seems likely that telecommunications services also increase with incomes (European Commission 2004). Therefore communication taxation would appear to be in line with vertical equity: the higher the one's income, the more the one pays. The tax is also evenly spread geographically across the EU. In practice, however, we must doubt if equity will exist between the citizens in the different Member States; tax morality and the quality of national tax administrations differ too much: consumers in some Member States will pay the tax, other consumers will not (Schneider 2007, 20).

In the past, the EU has felt confident in proposing taxation of older communication services. Because the EU created the environment for the growth of these services, the tax had a clear link to the common EU policy of the creation of one internal market. This argument is hardly convincing, however, and it is so general that it would allow for the introduction of almost any tax: it will hardly motivate consumers to see the tax as a *quid pro quo*. For this reason, the commission, in its most recent communication, has actually shelved plans for the introduction of an EU communication tax for the near future, stating that “the justifications for the communications tax seem rather blurred” (European Commission 2011b, 145).⁸ This could change however, with the introduction of the planned European policy on information and communication technologies;⁹

⁸ At present the European Commission (2011a) emphasizes an EU financial transaction tax and a new VAT resource as two possible new own resources of the Union. Both together would supply 40 percent of the EU budget in 2020.

⁹ “A fully functioning single market depends on modern, high performing infrastructure connecting Europe particularly in the areas of transport, energy and information and communication technologies (ICT)” (European Commission 2011a, 14). The role of the commercial Internet providers as willingly cooperating with the creation of one internal market should not be taken for granted. A single internal market not only has the advantage that national Internet providers can more easily go abroad, but also that they have more overseas competitors. This has historically always been a reason for firms to ask for protective measures. Therefore, the willingness to create the one internal market by all providers should not be taken for granted. The gains for the consumers and other businesses, however, are huge. Next to increased choice for consumers, the spurring of innovation by providers, the overall prices in telecommunications (relative to the consumer price index) have declined by 23 percent over the period 1996–2000 (European Commission 2002a, 115). In total, the growth attributable to the liberalization of the telecom market has been 0.4 percent of total national income (European Commission 2002b), although this figure is in a sense a guess since the counterfactual—the non-existence of an internal market—is hard to specify in time. For these problems see the ex post estimate of the effects of the

without financial help from the Union, paid by a European Communication Tax, the envisioned “modern, high performing infrastructure” is unlikely to come about. As the Commission has observed, “National budgets will never give sufficiently high priority to multi-country, cross-border investments to equip the Single Market with the infrastructure it needs” (European Commission 2011a, 14). In the next MFF, for the years 2014–2020, the Commission is proposing a €9 billion investment for the creation of digital networks.¹⁰ Since, at present, the Commission is under particular pressure from the public to show that belonging to the EU is of value to Member States and their citizens, the likelihood of the realization of the policy to create the wanted infrastructure after 2014 is high, given it is one of the best examples of the added value the EU can bring.¹¹ If realized, the Union will indeed have earned a certain right to tax its citizens.

The greatest disadvantage of a communication tax, particularly from a technical viewpoint, is that it is a new tax (cf. HLEG 1997) with a current sophistication of technical analysis equivalent to simply taxing telephone landlines.¹² For example, Is the intention to tax emails sent to servers in Europe? From servers in Europe? Through servers in Europe? Or all three? Would Americans checking email while on vacation in Europe be subject to the tax? Moreover, who would collect the tax: ISPs or mobile operators? At present too, email messages, which are not currently counted on a per-unit basis like mobile phone text messages, would initially be more difficult to measure for taxation purposes. The only feasible way to tax email messages would probably be at the level of an ISP or service like Hotmail or Yahoo!, since they would be able to track traffic levels. In short, the fast-changing technological environment of Internet “telephone” services has been noted by the Commission but has not, to my knowledge, been analyzed for its consequences. This has consequences for the

one internal market of Roeger and Sekkat (2002). For a much more positive ex ante estimate, see European Commission (1988).

¹⁰ For a preliminary list of proposed projects of broadband target areas and European digital service infrastructure corridors, see European Commission (2011c, 70). See European Commission (2011d, 74) for how the Union re-defines its role in promoting trans-European networks and how it wants to contribute to setting up the right conditions to boost investments and bridge remaining financial difficulties.

¹¹ As also follows from footnote 10, it would be a false impression of the gains of an EU policy, to compare only the, in total, €9.2 billion for the next seven years, starting in 2014 on ICT/digital project for the one internal market of the EU with a tax, to be paid each year, of €25 billion. This, indeed, would look like a bad exchange for the consumer taxpayer. The financial *quid pro quo*, for the taxpayer, is much bigger in added growth, innovation, and (for example) fighting cybercrime (European Commission 2010b, 2011c).

¹² However, the EU also cites newness as an advantage, given it avoids time-consuming harmonization; the requirement for a harmonization process explains why an EU corporate income tax scores low as a new EU tax. For the present VAT, the harmonization process has lasted more than 10 years, and is still incomplete.

fulfillment of the budgetary criteria mentioned above, given that cost-effectiveness, stability, and the presumed growth of the revenues become speculative. These technical aspects of an Internet tax (as compared with other communication taxes) need to be assessed by the European Union.

Implications for European Union Policy

It would be easy for an Internet communication tax to fulfill the criteria of visibility, equity, and efficiency. Because of great uncertainty, however, the technical and budgetary criteria currently show overriding negative results that will be hard to overcome. In addition, and most importantly, the tax is not at present (from a political point of view) backed by EU policy. The EU intends to change this situation.

An EU policy regarding Internet taxation can be a real added value for the Union, given that if the EU supplied real European collective goods, citizens would presumably feel connected with the EU, and be in favor of European taxes (Iozzo, Micossi, and Salvemini 2008). Others have observed, however, that since taxes are never popular, a visible EU tax might actually diminish support for the Union (Mutén 2001, 230). Because of the high costs involved, individual Member States would probably be reluctant to invest in digital communication infrastructure: an equitable result would therefore be to share the tax revenues between Member States and the Union.¹³ The diverse quality of national tax administrations would be less of a problem, since Member States have an incentive to collect the taxes in view of revenue sharing. Member States, too, would be motivated to contribute for this common policy, since they would get something in return. The problem of how to turn the *juste retour* thinking of the Member States and citizens to the EU's advantage (Leen 2011) would perhaps therefore be solved by an EU Internet communication tax.¹⁴ If so, we would have come full circle. As Begg and Grimwade (1998, 137) stated after introducing the idea of a communication tax over a decade ago: "This new tax could well have the advantage of being more easy to project as an authentic 'Euro-tax'." If so, a

¹³ Compare Lamassoure's idea of a communication tax. In this idea, the tax proceeds of messages sent within a country would go to the national government, and those that cross borders to the Union.

¹⁴ At present, given the democratic deficit, to introduce EU taxes would not be an improvement. The current Parliament is not a real parliament, and the European Commission is not a real government. Hence, it is not to be expected that the EU could deliver a tax agreed on by the citizens. The suspicion is that a European tax will increase the autonomy of the EU, meaning that the Union would no longer have to beg for money from the Member States. Increased autonomy, however, in a democratic society, can never be an end in itself (Heinemann, Mohl, and Osterloh 2008, 50).

communication tax—like the EU’s role in taxation—is set to become an important political and economic battleground in the future.

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