

Taxation

Zero VAT rate: Belgium defies Commission

By Tanguy Verhoosel | Tuesday 16 October 2012

Belgian Finance Minister Steven Vanackere has notified the European Commission of his “intention” to apply the same VAT rate to digital newspapers and periodicals as to their print versions, namely the zero rate. The EU executive takes issue with the principle.

In a letter to Taxation Commissioner Algirdas Semeta, dated 11 October, Vanackere maintains that “it is logical that, in a competitive environment, similar goods and services should be subject to the same taxation rules. This principle of neutrality is also confirmed by European case law,” he writes. “Existing regulations are no longer adapted to the technological developments of recent years. This is slowing the development of digital platforms and major investments,” he continues. “Readers are increasingly supplementing or replacing their reading of print publications with the consultation of news in digital form.”

The Belgian minister cautiously explains that he does not intend to apply zero VAT to the full range of media: “The measure does not cover websites, but the exact replicas of newspapers or magazines that the reader can read on a PC, iPad or similar device”.

The European Newspaper Publishers Association (ENPA), which represents some 5,200 titles published in the EU, Switzerland, Norway and Serbia, in print or electronic form, applauded Vanackere’s initiative. It is also campaigning in favour of a reduced, super-reduced or zero VAT rate for the digital press, thus putting it on an equal footing with print publications.

The ENPA uses the same arguments as Vanackere: “The announcement of the Belgian finance minister recognises the vital role that newspapers in all formats play in democratic society. A competitive professional press in the digital environment is important for the quality of public debate on the internet,” said ENPA Executive Director Francine Cunningham. “In our view, the current EU legislation is outdated and a technologically neutral approach should apply. The rates for newspapers in the digital environment should be aligned with the existing rates for printed newspapers in the member states. Lower VAT on digital press would ease access for citizens to quality newspaper content,” which, according to Cunningham, contributes to an informed and educated work force.

The European Commission does not contest that view.

On the contrary, it appears to share it, judging from its communication on the future of the VAT system, published in 2011: “Similar goods and services should be subject to the same VAT rate and progress in technology should be taken into account in this respect, so that the challenge of convergence between the online and the physical environment is addressed”.

This “guiding principle” is reiterated in the public consultation on reduced VAT rates launched by the Commission on 8 October (see *Europolitics*4503). Its implementation presents problems, however, for e-books and digital newspapers.

“Considering the need for a uniform and future-proofed approach at EU level, what should be the definition of online newspapers and online periodicals in EU law,” asks the Commission. It points out that “the increasing development of new functionalities makes it difficult to assess to what extent offline and online publications are still to be considered ‘similar products’ even if commercial practice tends to bundle subscription to the paper version with access to the online add-on features”.

National legislations vary considerably. Frequency of publication, the specific nature of content (pornographic or violent, for example), the quantity of advertising and distribution method (subscription or newsstand sales) are sometimes used as criteria to determine whether a reduced, super-reduced or zero VAT rate applies.

In short, is the aim to ensure equal treatment for the publication of regularly updated news on the website of a daily or periodical and the mere provision of a digital version of print media? Is it still possible to make a clear distinction between these two services?

INFRINGEMENT PROCEEDINGS AHEAD?

The Commission is still collecting the opinions of individuals and companies concerned by these issues (the public consultation, which will probably lead to the presentation of legislative proposals at a subsequent stage, will run until 3 January 2013), but it has considerable misgivings about Belgium’s “intentions”.

“Reduced rates for online publications or e-books are not allowed under EU legislation,” commented Emer Traynor, spokesperson for Commissioner Semeta. “Member states have to respect EU law as it stands today,” pending a possible evolution considered necessary by the Commission itself, as evidenced by its communication on the future of the VAT system and the public consultation.

Meanwhile, infringement proceedings may be launched against Belgium if it decides to go through with its plans.

Precedents exist. “We have already taken the first step in infringement proceedings against France and Luxembourg for their application of reduced rates to e-books,” noted Traynor.

“When these two states went against EU law and applied a reduced rate for e-books, serious competitive distortions in the single market arose immediately. Four finance ministers wrote to the Commission to complain about the negative impact this had on their market, with the UK pointing to the fact that it led to a fall in book sales of 4.5 million units in just two months.”

The moral of the story: Belgium is well advised not to go it alone.

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