



November 2019 EU affairs newsletter

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E-commerce

Council agrees on new rules for exchange of VAT payment data

The Council reached a general approach on November 8th on a set of rules to facilitate detection of tax fraud in cross-border e-commerce transactions.

The new rules will enable member states to collect, in a harmonised way, the records made electronically available by payment service providers, such as banks. In addition, a new central electronic system will be set up for the storage of the payment information and for the further processing of this information by national anti-fraud officials.

"Payment service providers are a key link in the chain of online purchases. Thanks to the information they hold, they have a vital role to play in helping national tax authorities identify and fight VAT fraud. By harmonising the way to collect and access this information, member states will have a powerful tool to control whether VAT rules are correctly applied, especially in the area of cross-border e-commerce." Mika Lintilä, Finnish minister for finance

Concretely, this set of new rules consists of two legislative texts:

- amendments to the VAT directive putting in place requirements on payment service providers to keep records of cross-border payments related to e-commerce. This data will then be made available to national tax authorities under strict conditions, including those related to data protection.
- amendments to a regulation on administrative cooperation in the area of VAT. These amendments set out the details of how national tax authorities will cooperate in this area to detect VAT fraud and control compliance with VAT obligations.

These rules complements the VAT regulatory framework for e-commerce coming into force in January 2021 which introduced new VAT obligations for online marketplaces and simplified VAT compliance rules for online businesses.

These rules should be formally adopted by the Council without further discussion once the text has undergone a legal and linguistic review.

[Text of the agreement on the VAT payment data](#)



VAT

Council reaches provisional agreement on simplified rules for small businesses

At the beginning of November, the Council reached a general approach on further simplification of the VAT rules applicable to small businesses.

The purpose of the new rules is to reduce administrative burden and compliance costs for small enterprises and to help create a fiscal environment which will help small enterprises grow and trade cross-border more efficiently.

Businesses have VAT administrative obligations and act as VAT collectors. This generates compliance costs that are proportionately higher for small enterprises than for bigger businesses. The existing VAT system, which foresees that VAT exemption for small enterprises is only available to domestic players. The reform will enable to apply similar VAT exemption to small enterprises established in other member states. one of the decisive factors for qualifying for such exemption will be the levels of turnover generated in a

The updated rules will also improve the design of the exemption, thereby contributing to reducing VAT compliant costs. It will also provide the opportunity to encourage voluntary compliance and therefore help reduce revenue losses due to non-compliance and VAT fraud.

The text foresees that small enterprises will be able to qualify for simplified VAT compliance rules in case their annual turnover remains below a threshold set by a Member State concerned, which can not be higher than 85 000 EUR. Under certain conditions, small enterprises from other member states, which do not exceed this threshold, will also be able to benefit from the simplified scheme, if their total annual turnover in the whole of the EU will not exceed 100 000 EUR.

Concretely, the agreed rules are composed of two main building blocks:

- amendments to the VAT directive which aim at revising and simplifying rules on VAT exemption for small enterprises so that they can use the VAT exemption across the EU.
- amendments to the regulation on administrative cooperation in the field of VAT to improve administrative cooperation between tax authorities concerning the application of the updated VAT rules for small enterprises.



These rules should be formally adopted by the Council without further discussion once the text has undergone a legal and linguistic review.

[Text of the agreement on the VAT scheme for small businesses](#)

Consumer law

EU consumers' protection to be reinforced

The EU is taking steps to boost consumer protection. Following an agreement with the European Parliament last March, the Council today adopted a directive that modernises EU law on consumer protection and facilitates the enforcement of consumers' rights.

The directive provides for:

- enhanced harmonisation and streamlining of some of the criteria used to determine the level of penalties for infringements of EU consumer law;
- a right to individual remedies for consumers when they are harmed by unfair commercial practices, such as aggressive marketing;
- enhanced transparency in online transactions, regarding the use of online reviews, personalised pricing based on algorithms or higher ranking of products due to 'paid placements';
- the obligation of online marketplaces to inform consumers on whether the responsible trader in a transaction the seller and/or the online marketplace is itself;
- the protection of consumers in respect of 'free' digital services, meaning those for which consumers do not pay money but provide personal data, such as: cloud storage, social media and email accounts;
- clear information for consumers in case of price reduction;
- the removal of disproportionate burdens, such as the obligation to use outdated means of communication, imposed on businesses by existing legislation;
- clarifications on member states' freedom to adopt rules to protect the legitimate interests of consumers with regard to some particularly aggressive or misleading marketing or selling practices in the context of off-premises sales;
- clarifications on the way misleading marketing of 'dual quality' products should be dealt with by member states.



The directive amends the unfair commercial practices directive (2005/29/EC), the consumer rights directive (2011/83/EU), the unfair contract terms directive (93/13/EEC) and the price indication directive (98/6/EC).

Following the adoption of the directive, member states will have 24 months to adopt the measures necessary for its implementation. These measures will start to apply 6 months later.

Together with a proposed directive on representative actions for the protection of the collective interests of consumers, this directive is part of the '**New Deal for Consumers**', launched by the Commission in 2017.

[Full text of the directive](#)

FinTech

Google to offer checking bank accounts in partnership with banks in 2020

Google is the latest big tech company to make a move into banking and personal financial services: The company is gearing up to offer checking accounts to consumers, as first reported by The Wall Street Journal, starting as early as next year. Google is calling the project “Cache,” and it’ll partner with banks and credit unions to offer the checking accounts, with the banks handling all financial and compliance activities related to the accounts.

Google’s Caesar Sengupta spoke to the WSJ about the new initiative, and Sengupta made clear that Google will be seeking to put its financial institution partners much more front-and-center for its customers than other tech companies have perhaps done with their financial products. Apple works with Goldman Sachs on its Apple Card credit product, for instance, but the credit card is presented primarily as an Apple product.

GAFA obviously stand to gain a lot of valuable information and insight on customer behavior with access to their checking account, which for many is a good picture of overall day-to-day financial life. Google says it’s also intending to offer product advantages for both consumers and banks, including things like loyalty programs, on top of the basic financial services.



Google already offers Google Pay, and its Google Wallet product has hosted some features beyond simple payments tracking, including the ability to send money between individuals. Meanwhile, others, including Apple, have also introduced payment products, and Apple of course recently expanded into the credit market with Apple Card. Facebook also introduced its own digital payment product earlier this year, and earlier this year announced its intent to build its own digital currency along with partners.

The initial financial partners that Google is working with include Citigroup and Stanford Federal Credit Union, and their motivation seems to be seeking out and attracting younger and more digital-savvy customers who are increasingly looking to handle more of their lives through online tools. They'll also benefit from Google's ability to work with large sets of data and turn those into value-add products, but Google doesn't use Google Pay data for advertising, nor does it share that data with advertisers. Still, convincing people to give Google access to this potentially sensitive area of their lives might be an uphill battle, especially given the current political and social climate around big tech.

Data Protection

European Data Protection Board Guidelines on Territorial Scope

The EDPB adopted a final version of the Guidelines on Territorial Scope following public consultation. The guidelines aim to provide a common interpretation of the GDPR for EEA Data Protection Authorities when assessing whether a particular processing by a controller or a processor falls within the territorial scope of the legal framework, as per Art. 3 GDPR. The Guidelines provide further clarification on the application of the GDPR in various situations, for example, where the data controller or processor is established outside the EEA, including on the designation and role of a representative under Art. 27 GDPR.

The final guidelines integrate updated wording and further legal reasoning in order to address comments and feedback received during the public consultation, while maintaining the overall interpretation and methodology presented in the first version of the guidelines.



European Data Protection Board Guidelines on Data Protection by Design & Default

The EDPB adopted Guidelines on Data Protection by Design & Default. The guidelines focus on the obligation of Data Protection by Design and by Default (DPbDD) as set forth in Art. 25 GDPR. The core obligation here is the effective implementation of the data protection principles and data subjects' rights and freedoms by design and by default. This requires that controllers implement appropriate technical and organisational measures and the necessary safeguards, designed to ascertain data protection principles in an effective manner and to protect the rights and freedoms of data subjects. In addition, controllers must be able to demonstrate that the implemented measures are effective. The guidelines will be submitted for public consultation.



Company law

EU makes it easier for companies to restructure within the single market

The EU is removing unjustified barriers to EU companies' freedom of establishment in the single market. Following an agreement with the European Parliament earlier this year, the Council adopted on 18th November 2019 a [directive that facilitates EU companies' cross-border conversions, mergers and divisions](#).

The new rules introduce comprehensive procedures for cross-border conversions and divisions and provide for additional rules on cross-border mergers of limited liability companies established in an EU member state. They also offer further simplifications that will apply to all three operations. These include the possibility of speeding up the procedure by waiving reports for members and employees if shareholders agree, or if the company or any of its subsidiaries do not have any employees.

The directive sets out procedures to check the legality of cross-border operations against the relevant national legislation and introduces a mandatory anti-abuse control procedure. The procedure will allow national authorities to block a cross-border operation when it is carried out for abusive or fraudulent purposes, i.e. when it is designed to evade or circumvent national or EU law or is intended for criminal purposes.

The agreed text provides for similar rules on employee participation rights in cross-border conversions, mergers and divisions. It also ensures that employees will be adequately informed and consulted about the expected impact of the operation. Minority and non-voting shareholders' rights will enjoy greater protection. At the same time, creditors of the company concerned are granted clearer and more reliable safeguards.

Finally, the directive encourages the use of digital tools throughout the cross-border operation. It will be possible to complete formalities such as the issuance of the pre-operation certificate, online. All relevant information will be exchanged through existing, digitally interconnected, business registers.

The directive will enter into force 20 days after its publication in the Official Journal of the EU. Member states will then have 36 months to adopt the measures necessary for its implementation.



Open Data

OECD report “Government at Glance 2019” outlines the progress made on Open Data in OECD Countries

Government at a Glance provides reliable, internationally comparative data on government activities and their results in OECD countries. Where possible, it also reports data for Brazil, China, Colombia, Costa Rica, India, Indonesia, the Russian Federation and South Africa. In many public governance areas, it is the only available source of data. It includes input, process, output and outcome indicators as well as contextual information for each country. The 2019 edition includes:

- input indicators on public finance and employment
- data on institutions, budgeting practices and procedures
- data on human resources management
- regulatory government, public procurement and digital government and open data.

Outcomes cover core government results (e.g. trust, inequality reduction) and indicators on access, responsiveness, quality and citizen satisfaction for the education, health and justice sectors. Governance indicators are especially useful for monitoring and benchmarking governments’ progress in their public sector reforms. Each indicator in the publication is presented in a user-friendly format, consisting of graphs and/or charts illustrating variations across countries and over time, brief descriptive analyses highlighting the major findings conveyed by the data, and a methodological section on the definition of the indicator and any limitations in data comparability.

For more information : <https://www.oecd.org/governance/government-at-a-glance-22214399.htm>



About FEBIS– Federation of Business Information Services

Benefiting from the opening of markets within Europe and overseas, world-wide business has experienced substantial growth. As business grows so does the demand for business information intelligence for cross-border business activities.

In 1973, leading European credit information agencies joined forces to form the Federation of Business Information Services FEBIS (initially known as FECRO), with its registered office in Frankfurt. Today, FEBIS has developed into a sizable organization comprising more than 100 members from all over the world involved in providing Business Information and credit information services of national and International importance.

As the industry association, FEBIS strives to look after common interests of its members. While monitoring new legislation like data protection laws and insolvency laws, FEBIS also oversees and the application of public sources and information.