1 Background

The European Union’s (EU) basic but non-definitive model for indirect taxation (such as Value-Added Tax (VAT)) is commonly called the Sixth VAT Directive. When the Sixth Directive was put in place, it was unheard of that products could be delivered electronically. It provided that in the EU, the supply of services would, generally, take place in the state in which the supplier has established his business, has a fixed establishment from which to service his supply, or has a permanent address where he usually resides, subject to a number of exceptions.

When these rules were applied to electronic supplies, few problems were experienced in respect of business-to-business (B2B) transactions, as an EU VAT registered business buyer is required to self-assess the tax under the reverse charge mechanism, whether or not the supplier of services or electronic products was from the EU. But problems resulted from business-to-consumer (B2C) transactions. Unless special provision is made, the default position of section 9(1) applies, despite the fact that this section was initially designed to deal with national supply, on the assumption that services are consumed where they are supplied. In terms of this general provision, electronic deliveries from an EU supplier were taxed where the supplier was established, whether the supply was performed or physically carried out, which will, generally, be in the country of consumption. But as soon as art 9(2)(c) supplies are delivered digitally (for example, when music, videos, or films are supplied online), the place of performance will probably not correspond with the place of consumption, as performance could have occurred earlier, anywhere. Such a discrepancy may result in non-taxation or misallocation (resulting in a distortion of competition) of VAT revenue. The ‘effective use and enjoyment’ anti-avoidance provision is not available to correct the situation in respect of art 9(2)(c) supplies. It was also felt that the appointment of a fiscal representative by the foreign supplier to act on his behalf in the consumer’s Member State would not guarantee the effective taxation of these types of service, as there was no uniform Community practice. The Sixth Directive leaves the application of this option to the discretion of the Member States.
consumer was in the EU or elsewhere. This gave rise to a number of undesirable consequences. The first concerned supplies between Member States. Because of the different VAT rates levied by Member States, the application of the origin principle could lead to a distorted consumption pattern, as consumers could choose to buy from a Member State with the lowest VAT rate. With intra EU B2B supplies, the receiver of a supply could theoretically claim an input credit refund for the VAT in respect of the transaction. But the refund procedure is cumbersome and expensive. If a business should decide not to claim the refund, VAT would remain locked in, which would lead to tax accumulation and hence a rise in the consumer price. Both effects discouraged cross-border activity and compliance with VAT regulations. The application of the origin principle also led to undesirable consequences in cross-border transactions, as EU suppliers had to charge VAT not only in respect of transactions with EU consumers, but when they supplied non-EU consumers. But a non-EU supplier could sell to an EU consumer without any obligation to charge EU VAT, as electronically delivered services and products supplied in these circumstances were not subject to VAT under the old Sixth Directive rules. The seller was not required to collect EU tax, and the buyer was not required to self-assess. If the supplier’s country did not have a VAT regime, the service would remain untaxed. It was felt that because of the fact that most of the new types of digital delivery from outside the EU did not fit into the special place of supply provisions, they would under article 9(1) and so would remain untaxed. This gave a tremendous competitive advantage to non-EU suppliers who could deliver goods electronically VAT free, while their EU competitors had to charge VAT when they supplied final consumers in the EU and elsewhere. For example, European exporters to the United States had to pay EU VAT, whilst American exporters were not under a similar obligation.

With the advent of e-commerce, trade was no longer constrained by geographic or economic borders, and it became possible for a business to perform transactions in jurisdictions in which it had no fixed place of establishment. This dramatic shift from the old conditions governing commercial activity required an adjustment of the legal principles governing various aspects of trade, as it was feared that the existing position resulted in distorted consumption patterns — final consumption would shift to VAT-free international suppliers, which

8 Cecilia Hargitai Value Added Taxation of Electronic Supply of Services Within the European Community research paper for Jean Monnet Centre of the NYU School of Law (2001) ch 3 ¶ 4B p 15 and ¶ 3A(b) p 8, accessible at <www.jeanmonnetprogram.org/papers/01/013301.html>. This concerns B2C transactions.
9 Ibid ch 3 ¶ 4B p 15.
10 Ibid.
11 The one exception was telecommunication services. Generally, non-EU sellers of these services were required to register for and collect VAT on sales to EU consumers.
12 Like the United States of America, for example.
13 Hargitai op cit note 8 ch 3 ¶ 4B p 15.
14 Such as pay-per-view entertainment services.
might induce EU businesses to supply services through web sites in VAT-free countries in order to retain their market share of final consumers.\(^{17}\) This was recognized by the EU. In 1998, it was proposed that the VAT legislative base should be amended to take the new principles into account and to review compliance models, while the need for international collaboration was taken into account.\(^{18}\) The EU worked with the Organization for Economic Co-operation and Development (OECD)\(^{19}\) to provide an international forum and, in 1998, adopted a set of guidelines that gave due recognition to the need for international accord.\(^{20}\) As a response to a Round Table Conference and a working paper in 1999, the first real attempt to finalize a solution came in the form of the Proposal of 7 June 2000.\(^ {21}\) But this proposal failed to garner enough support and was replaced by the Proposal of 7 May 2002, which contained many of the basic objectives of its June 2000 predecessor.


On 7 May 2002, the European Council adopted the Directive 2002/38/EC and Regulation No 792/2002 to amend the existing VAT legislation. The EU believes that this will remove the competitive disadvantage that EU companies suffered against non-EU suppliers of digital services, which gave rise to distortions in the internal market. The amendments took effect on 1 July 2003 and will remain in effect for three years, after which time they may be extended or revised.\(^ {22}\) This VAT Directive has made the EU the first tax jurisdiction to implement significant amendments in respect of consumption taxes based on e-commerce issues outlined in the OECD guidelines.

New place of supply rules for electronically delivered services supplied for consideration were introduced,\(^ {23}\) and provision was made for a special registration scheme in respect of non-EU based operators to facilitate compliance.\(^ {24}\) Provisions to facilitate the discharge of VAT obligations by electronic means were introduced.\(^ {25}\) I shall discuss these issues below.

The Directive applies to electronically delivered services, and to radio and television broadcasting services.\(^ {26}\) The term ‘electronically supplied services’ is not defined, but an illustrative list is provided in the new annexure L to the Sixth VAT Directive:\(^ {27}\)

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\(^ {17}\) Richard L Doernberg, Luc Hinnekens, Walter Hellerstein & Jinyan Li *Electronic Commerce and Multi-jurisdictional Taxation* (2001) 429; Hargitai op cit note 8 ch 3 ¶ 3A(b) pp 8–9; and ¶ 4A p 12.


\(^ {19}\) See <www.oecd.org>.


\(^ {21}\) COM (2000)349 final.


\(^ {23}\) See 2.1 below.

\(^ {24}\) See 2.2 below.

\(^ {25}\) See 2.3 below.

\(^ {26}\) I have limited my discussion here to the supply of electronically delivered services.

\(^ {27}\) The new art 9(2)(e).
Web site supply, web hosting, distance maintenance of programmes and equipment.
Supply of software and updating thereof.
Supply of images, text and information and making databases available.
Supply of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events.
Supply of distance teaching.

Where the supplier of a service and his customer communicate via electronic mail, this shall not itself mean that the service performed is an electronically supplied service.

The EU deliberately refrained from defining ‘electronically supplied services’ by means of a prescriptive list, because of the disadvantages of such a method: it creates problems in defining each type of service on the list, runs the risk of quickly becoming outdated, and creates a fence around which avoidance and tax planning can occur.

2.1 New Place of Supply Rules

In the first instance, the new rules incorporate electronically delivered services (supplied from inside the EU) to non-EU customers or to EU registered businesses under article 9(2)(e) (which deems the place of supply to be the location of the customer). So EU suppliers no longer has to levy VAT on supplies to non-EU customers. Secondly, sales of electronically delivered services by a taxable person from outside the EU to an unregistered or non-taxable consumer located inside the EU are now taxable ‘at the place of the recipient of the services’ — where the unregistered consumer is located. In terms of the new article 9(2)(f), a consumer is located where he is established, has a permanent address, or usually resides. Note that this paragraph does not affect transactions between non-EU suppliers and EU businesses, and applies only to transactions with non-taxable or non-registered private consumers (B2B transactions are dealt with under the self-assessment, reverse charging system already in place). So a non-EU established taxable supplier now has to charge VAT on sales to private, non-taxable consumers in the EU, like EU registered suppliers have to do.

Inherent in this system is the supplier’s ability to distinguish between business consumers and private consumers. This may prove problematic, but it was proposed that the supplier would mostly be able to determine this from the electronic databases available in Member States containing a register of people.

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30 Article 2 of the Sixth Directive, read with art 9(2)(e) and (f). Article 2 limits the scope of the Directive to the supply of goods and services effected for consideration within the territory of the relevant Member State by a taxable person acting as such. As art 9(2)(e) deems the place of supply to be where the customer is located, supply to a non-EU customer falls outside the ‘territory of the country’ and so outside the scope of the Directive.
32 New art 9(2)(f).
33 Article 9(2)(f) refers to ‘... services ... supplied when performed for non-taxable persons who are established ... in a Member State ...’.
34 A non-established supplier is a taxable person who has established his business, or has a fixed establishment, permanent address, or usual place of residence outside the EU (art 9(2)(f)).
with VAT identification numbers. The Council of the EU extended the intra Community exchange of information system to allow wider access to certain information in the existing electronic register databases. On 14 June 2002, the Commission introduced an online validation system that is available to all members of the public free of charge (VAT Information Exchange System (VIES)). This allows checking the data bases of VAT registration numbers that each Member State maintains. Access to all other information is blocked to maintain taxpayer confidentiality. But digital signature technology will probably be needed to make sure that the buyer is whom he says he is. Sellers would also need to incorporate costly technology in the online ‘shopping carts’ that allow them to verify signatures and VAT registration in real time. It may be some time before digital signature technology is widespread and accessible to all those who want it.

The amendment is aimed at taxing at the place of consumption. Where the customer is a final, private consumer, the probability that his location, under the new rules, corresponds with the actual place of consumption is more real than under the old dispensation. But goods or services may still be received at one place and actually ‘consumed’ in another. Article 9(3), generally, enables EU members effectively to treat a place of supply as where the actual use and enjoyment of the services take place to avoid double taxation, non-taxation, or the distortion of competition. But the amendment of article 9(3) makes it clear that the ‘use and enjoyment’ provisions do not apply in respect of electronically supplied services, where these services are provided to non-taxable people. So a B2C supply of electronic services is deemed to be supplied where the consumer is established, has his permanent address, or usually resides, even though it may not necessarily be where the service is actually carried out or consumed. It is, as I have stated earlier, assumed that most non-business customers use and enjoy the services in the same country in which they are located or belong, so that there would be no double taxation, non-taxation, or distortion of competition.

2.2 Special Compliance Scheme: Identification of Non-resident Suppliers

Because of the ineffectiveness of a reverse charge or self-assessment procedure in the case of B2C transactions, the OECD recommended a
simplified registration for non-resident suppliers involved in this type of transaction as a short-term remedy, but indicated that technology based options and hybrid systems should be envisaged in the medium to long term. This option implies that the supplier is required to account for taxation in the country of consumption. Various problems were identified: it is difficult to identify non-resident suppliers. Where a foreign vendor has no physical presence in a country, tax authorities find it difficult to enforce registration. But if a fiscal representative is required, this has a negative cost impact, and is incompatible with an e-commerce model. Also, if non-resident vendors have to comply with a diversity of tax laws, their compliance burden is unbearable. Vendors may also experience problems in identifying the countries where they should register, as suppliers of digital content do not always know the destination of their sales.

Despite these problem areas, the EU has robustly opted for the following. Under the normal rules, the new place of supply rules would mean that non-EU businesses would be required to register and separately account for VAT in each and every Member State in which they supply. Instead, the newly introduced ‘special scheme’ requires non-EU suppliers to be ‘identified’ for VAT purposes in one European Union member state of their choice (called the ‘Member State of identification’), and all VAT compliance will be channeled through that country. But non-EU suppliers will collect taxes based on the rates of all the EU member states in which they have final consumers. The country of identification will reallocate the VAT revenue to the country of consumption (called the ‘Member State of consumption’) — the Member State in which the supply of electronic services is deemed to take place under article 9(2)(f) (where the non-registered person is established, has his permanent address, or usually resides).

The supplier may, alternatively, still choose to register for VAT in each Member State where he has customers who are final consumers: the Directive states that electronic service providers who are not already established or required to be identified ‘. . . may . . . opt for identification in a single Member State’.

The scheme is available only to businesses not already required to be registered under the normal rules. For example, where a business supplies both electronic goods and other goods and services, it is not be eligible for the special scheme, as it is already required to register in respect of the supply of goods and services other than electronically supplied services.

44 Idem at 15–16.
46 Recital (5) and art 26c of Council Directive 2002/38/EC.
Taxation based on the rate applicable to the consumer’s location and the ‘refund’ system was not part of the initial 2000 proposal. In terms of the earlier proposal, a non-EU supplier should have collected VAT on all its European sales only at the rate applicable to its country of choice. This was criticized as a single registration system in a country of choice would necessarily prompt registration in countries like Luxembourg with a fifteen per cent rate, instead of in countries with a higher rate, such as Sweden and Denmark (25 per cent). This would also have caused a lack of equilibrium between traditional retailers in high VAT countries and their online competitors registered in a low VAT country, as the traditional retailers would have been selling their products at a price of up to ten per cent more than their online competitors registered in a low VAT country. This would have run counter to the principles of neutrality and non-discrimination, two of the cornerstones of the OECD’s guidelines for a good tax system.

The requirement that non-EU suppliers would have to account for VAT in all the Member States in which they have final consumers has at least two consequences: it requires non-EU firms to keep track of their customers’ locations in order properly to apportion taxes, and they need to know the rates that apply at their customers’ locations. Assuming that a customer can be located, the second requirement, although cumbersome, can be complied with. But it is more onerous for non-EU suppliers than their EU counterparts. EU companies can charge the same rate to every European customer — the rate of the country where they are located.\(^51\) Non-EU businesses will have to calculate the tax rate in respect of each EU consumer who buys, for example, a download, which makes it difficult for smaller firms selling in Europe.\(^52\) It should also be kept in mind that quite a few countries wish to join the EU in 2004 and that this may increase the burden.\(^53\)

The first consequence, keeping track of consumer location, is more tricky. In the case of B2B transactions where successful verification of a registration number has occurred, the location of the business can be inferred from its registration number and the country identification prefix. In B2C transactions this is not possible. In a traditional sales environment, the consumer would either pay right there and then, or supply his address for purposes of delivery and payment. When a consumer orders online, he uses an e-mail address that tells very little about his real physical address. The domain name in the e-mail address of a contracting party does not provide sufficient proof of his location, as it is relatively easy to obtain an overseas domain name.\(^54\) The most obvious way to obtain the necessary information would be to ask the

\(^{51}\) Basu op cit note 16 at 5, unless the distance selling thresholds are exceeded.


\(^{53}\) S Court & I Hill Value-Added Tax on Online Sales in the European Union, accessible at <www.haledorr.com/publications/).

consumer to provide it. But the urge to remain anonymous or to save VAT costs because of the differences between VAT rates may result in non-disclosure or giving false information. Without adequate verification procedures the information provided by the consumer may technically be useless. It was proposed that, in the short term, sellers should be allowed to make ‘the best good faith effort based on information that is currently available during the course of the transaction’. Hardesty believes that most successful online sellers will probably find some way of identifying consumer location as part of the critical knowledge required to do successful online marketing and advertising. Already some suppliers use software to track the source of their web-site visitors. In the United Kingdom, the Department of Customs and Excise has indicated that it will rely as much as possible on procedures already established by businesses to ensure that they are not burdened with unnecessary requirements. The British guidelines provide that a consumer’s self-declaration as to his location will be acceptable, without prior approval, if the following conditions are satisfied (when alternative methods are used, it has to be approved first): (a) the customers’ postal address has been provided and the goods have been successfully delivered there; (b) on accepting payment, the consumer’s home address and billing address are compared (or satisfactory alternative evidence is provided if the match is unsuccessful); (c) on accepting payment, the consumer’s country of residence and location of the issuing bank are compared (or satisfactory alternative evidence is provided if the match is unsuccessful); (d) geo-location software or proprietary software is used; or (e) systems that are configured to identify where the service is consumed (such as telecommunications services) are used.

The Directive requires that a non-EU seller of online services who is identified for VAT compliance in a single Member State complies with the requirements of that state. But the seller also has to comply with ‘any relevant existing provision in the Member State where the services are consumed’. To avoid non-compliance, then, a seller has to study the rules and guidelines of all Member States. This is undesirable, and it should be considered whether non-EU sellers should be allowed to follow a single set of rules for all EU sales.

Article 26c(9) states that

‘. . . the non-established taxable person shall keep records of the transactions covered by this special scheme in sufficient detail to enable the tax administration of the Member State of consumption to determine that the value-added tax return . . . is correct. These records should be made available electronically on request to the Member of identification and to the Member State of consumption . . .’

55 Basu op cit note 16 in n33; OECD op cit note 43 ¶ 39.
56 OECD op cit note 54 at 13. This includes the use of credit card information and the currency of payment. But credit card information does not provide accurate proof of jurisdiction. Internet provider tracing is also not completely reliable and can be manipulated (ibid).
57 Op cit note 4 at 6.
59 HM Customs and Excise op cit note 39 at 4.1.
60 Recital (6).
61 Ibid.
This seems to indicate that the Member State of consumption, and not the Member State of identification, audits the seller’s VAT compliance. This, as well as the supply of records to both the Member State of consumption and the Member State of identification, may create substantial compliance costs. The compliance burden would be eased tremendously if the non-EU seller is allowed to interact with one Member State for all compliance matters, including VAT audits.

Non-EU businesses registered for VAT under the special scheme can recover only their input VAT under a special procedure known as the ‘Thirteenth Directive Reclaim’. The procedure requires the submission of a special VAT refund application, and is complex and time-consuming. Suppliers who are established in the EU and registered for VAT under the normal rules can recover input VAT by immediately deducting the input credit through the normal VAT return. Incorporating a local subsidiary or establishing a branch could solve some of these problems, but the cost of establishing and maintaining the subsidiary or branch, and the income tax and other consequences, have to be considered.

The initial 2000 proposal had a de minimis threshold of EUR100,000 in EU sales, below which suppliers would be exempt from registration. The European Parliament proposed that the threshold be lowered to EUR40,000. The new Directive does not state a threshold. Without one, even occasional non-EU suppliers have to register, and the compliance burden may well persuade them not to comply with the requirements. However, a threshold would disadvantage small EU suppliers as against their non-EU competitors and discriminate between taxpayers below and above the threshold. A reasonable measure may be to exempt also small EU sellers, but this has not yet been suggested and would also not alleviate the discrimination between taxpayers below and above the threshold.

2.3 The Electronic Discharge of VAT Obligations

The single registration model uses a simplified registration scheme that can be completed online without the need for a fiscal representative or any physical presence. It requires the quarterly electronic submission of VAT returns.

3 Concluding Remarks

It has been argued that the EU pre-empted work being done by the OECD and that it used unilateral measures rather than wait for global consensus developed.

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63 According to Jenkins (op cit note 49), there is usually a delay of six months before payments are made.
65 The OECD actually recommended the principle that registration thresholds should apply in a non-discriminatory manner (op cit note 43 ¶¶ 47–48 p 15).
66 Hardesty op cit note 58 at 4.
through a deliberative and inclusive process. But the European Commission stressed that

‘[i]n no sense can the current proposal be seen as prejudging or pre-empting the outcome of the OECD’s deliberations. . . . [T]he intention is that such measures, whilst in the first instance intended for the internal VAT system, would serve as a model for international use.”

It argues that by implementing this system, the EU actually adopted the OECD proposal of a simplified online registration system as the only viable short term option for taxing sales by non-resident traders, and so the EU dispensation complements the international process at the OECD. The measures were designed to protect the trading equilibrium of EU-based businesses, and to protect revenue from outside erosion.

It is also argued that the new rules may be inconsistent with the international trade obligations of the World Trade Organization, in particular the commitment to accord national treatment to foreign goods and services. An EU service provider can benefit from a low VAT rate if he is based in a low-rate Member State, while his non-EU competitor must account for VAT in each Member State where he supplies, at the rate applicable there. Also, under the single place registration scheme, a non-EU supplier is denied the normal and speedy recovery of input VAT that his competitor enjoys.

The new rules have not addressed the discrimination between digitally delivered goods and traditional goods caused by the differentiation in applicable tax rates. Digitally delivered goods are taxed at the standard rate, while the equivalent, non-electronic goods are sometimes taxed at a reduced rate. For example, in the United Kingdom, the sale of a newspaper is classified as the supply of a physical object, which is zero-rated. But a newspaper delivered online is classified as the supply of a service that is standard rated in the United Kingdom, even though the information delivered digitally is exactly the same as the physical version. In an official press release, the European Commission refuted the argument that the differentiation between VAT on traditional articles and their electronic counterparts is inconsistent. The Commission believes that it is impossible to argue that there is direct equivalence between these items, as they are by their nature two fundamentally different products that need not necessarily be taxed identically.

It may appear that the compliance cost is too high. As I have indicated, a non-EU seller may have to be familiar not only with the rules of the state where it is registered, but also with the rules of all the states where it has customers who are final consumers. While the VAT audit will be conducted by the Member State of consumption, the Directive requires the supply of records to both the Member State of identification and the Member State of consumption. Costly technology may be necessary to track consumer locations. The Directive also

68 European Commission IP/00583, 7 June 2000.
71 IP/02/673, 7 May 2002.
states that its provisions, except those pertaining to electronic tax returns and statements that should be adopted permanently, are temporary and subject to review in three years.72 So businesses that incur substantial compliance costs in this period do so at the risk that it may be in vain if the provisions are revoked later.

Europe is taking the lead in this field, and it is likely that others will respond by requiring EU vendors to assume reciprocal obligations. This will be more probable if Europe is successful in implementing its proposals and other countries start to see tax revenue losses with the increased use of online sales.73 If this happens on a large scale worldwide, online vendor compliance systems will quickly become unworkable. Hardesty predicts that if only the United States adopts similar rules, EU sellers could be forced to deal with as many as 7,600 different sales tax jurisdictions.74 A single compliance agency to capture VAT on worldwide sales would solve this problem, but it remains a distant prospect that will encounter major resistance.75

It remains to be seen whether these measures will be effective in enforcing a collection responsibility upon non-resident vendors. The EU relies on voluntary compliance.76 Its effectiveness will depend upon international co-operation for enforcement as well as the willingness of multinational firms to protect their goodwill and image, and to maintain a favourable business environment in Europe. It has also been suggested that non-EU companies would have an interest in collecting VAT because the EU framework would protect their intellectual property rights within the Community. Put differently, the motivation for co-operation would be some form of give and take. But give and take are not law and do not provide certainty.77

When voluntary compliance fails, tax systems should be ready to enforce fiscal obligation.78 But enforceability is the Achilles heel of the new VAT system.79 The Regulation80 provides that the Member State of consumption has primary responsibility for assuring compliance of obligations by non-EU suppliers. Other than that, the proposal itself is deafeningly silent on how compliance should be secured. It gives no detail as to how EU national authorities will be able to trace non-compliant businesses, whether operating inside or outside the Union. Hardesty predicts that EU competitors of offending non-EU companies would have an interest in reporting them, and so may tip off the tax authorities.81 But this is not a practical solution that can offer

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72 Recital (10).  
73 Basu op cit note 16 in n62; Hardesty op cit note 4 at 8.  
75 Hardesty op cit note 4.  
76 EU Commission (MEMO/00/31).  
77 This motivation will probably be present only if an economic block (like the European Union) introduces the system, and not when a single, small country (like South Africa or New Zealand) introduces it unilaterally (see New Zealand Discussion Document op cit note 28 at 4.23–4.24).  
78 Basu op cit note 16 at 23.  
79 Idem in ¶ 3.  
80 Recital (2) of Council Regulation 792/2002.  
81 Op cit note 4.
any degree of predictability. Also, even where non-compliant businesses are identified, it is uncertain how the provisions can be enforced and the unpaid tax collected. Publication of the names of non-compliant companies has been suggested. Or, tax authorities could arrest company officers traveling in Europe, non-compliant companies could be denied the full protection of their intellectual property rights in Europe, or European access to non-compliant company web sites could be blocked. Withholding protection on intellectual property rights may be an empty threat, as the seller may not have any and so would not be bothered, and the tax authorities may not have the power to affect the enforcement of intellectual property rights, which are the subject of international agreement.\textsuperscript{82} Technological development will be an indispensable tool in the quest for compliance and enforcement. But the technology required for compliance and enforcement is not fully available yet.\textsuperscript{83} Ideally, there should be an EU-wide consensus of verification and compliance standards. Without doubt, enforcing compliance will be the most difficult task faced by the European governments and tax authorities.


\textsuperscript{83} The Directive would be unenforceable if it turns out to be impossible to verify with current technology the location of the consumer or whether the consumer is VAT registered.