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DIGITAL TAX and ONLINE REVENUE SHIFTING:
Covid – 19 and the Luxury Industry

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INTRODUCTION

The discussion's aim is that of analyzing the evolution of the taxation systems of the digital economy and the different proposals that have been suggested at an international level. Also, the thesis wants to focus on understanding how much digitalization has reshaped industries in this fast-changing world scenario. The heart of the disquisition will be on the luxury industry and on the progress of luxury e-commerce with an in-depth analysis of the pure players of this market as well as the Coronavirus pandemic role in today's crisis. Based on information technologies, which represent its pillar, the digital economy includes all the economic activities that have developed on digital technologies, and which refer to them. The increasing interconnection with the traditional economy, however, makes any type of taxation difficult and elusive. The purpose is that of auditing the means with which to try and improve the international taxation systems shaped by a common view.

The first chapter will focus on the problems arising from the digitalization of the economy with an accent on Italy's different approaches to taxation throughout the years. Internet trends, business models and the creation of data through the internet will be the starting point of the dissertation. Following will be an investigation of the issues that tax systems must confront with. Tax evasion, tax avoidance, aggressive tax planning and harmful tax competition are at the base of the important matter that is taxation as economies and countries operate thanks to the taxes paid by taxpayers and collected by governments. Italy's approach in this sense has been moving at a faster pace than other European countries and other world economies. As the paper is intended to identify the main aspects of the Digital Services Tax, our country will be the one on which the analysis will be further discussed and on which the entire thesis will be based upon.

Following the first chapter, the second one will have a broader scope as the main aspects of the section will be following the G20 and the Organization for Economic Co-operation and Development's approach to taxation and to the international cooperation there has been to create a more inclusive framework between countries. Beginning with the Base Erosion and Profit Shifting Project and the subsequent Pillars that the international organizations have been working on over the years, the aim is that of better understanding the European vision and its project for a better, fairer, and more transparent taxation system. Next will be two proposals suggested by the European Union: The Common Consolidated Corporate Tax Base

and the Interim Web Tax. Also, with the intent of understanding the different approaches that have been adopted by other countries, France and the United States of America will be examined as they have always had deep relations with Italy.

The third chapter is the one whose focus and main aspects touch different points, from digitalization and e-commerce to the luxury industry. As already mentioned, the Covid-19 crisis has reshaped the way people live and how they interact with the different markets. The intent of this chapter is to focus on the luxury industry and the online shifting there has been in companies' revenues due to the Coronavirus pandemic. The digitalization of the economy is something that we are clearly facing, and the generalized lockdowns and social distancing have boosted the digital transformation, changing enterprises business models. The luxury industry was chosen not only because of a personal interest in the matter, but also because of its ever distance from the online world. Luxury companies and brands have ingrained digital platforms into their business models over time but have long hesitated before moving forward in this direction. The industry is very complex and singular and the delay with which it has entered the digital world seemed an interesting point from which to start the discussion of the last chapter of the thesis. In addition, the Worldwide Market Monitor presented by Altagamma, together with Bain & Co., will be discussed to have a better understanding of the macro-trends of the industry and an update on the global luxury goods market. The end of the disquisition foresees the analysis of Farfetch Limited and YOOX NET-A-PORTER. The two pure players will be evaluated as their approach towards e-commerce and digitalization has set the basis and has been the driving force for other luxury brands to follow.

CHAPTER 1 – DIGITAL ECONOMY: PROBLEM STATEMENT

1.1 Digital economy: a fourth revolution?

There is a substantial difficulty in defining and confining the phenomenon of "digital economy" at an institutional level, as well as those of "information technology" and "e-commerce". However, the growth of digital economy has been a major contributor to the economic growth and has changed the ways economies, industries and disciplines are impacted by this market booming. Digital technologies are transforming not only the way business operate but also, they are challenging ideas about the very meaning of humanity. The idea of humanity being some kind of natural concept is changing rapidly. A value shift is triggered by the creation of a new story about how people want to live, and today's population has chosen technology as part of their lives. The changes that we perceive are leading to other shifts, from power to wealth to knowledge and all of them are dragged on by the digital transformation we are experiencing. This transformation guided by Information and Communication Technologies (ICT) is the driver of all the changes that are taking place at a systemic level (Cf. Biltz., Carrel-Billiard and Daugherty 2020).

The International Monetary Fund (IMF) has tried to give a precise definition of "digital economy" in its 2018 Policy Papers. They state that "Digitalization encompasses a wide range of new applications of information technology in business models and products that are transforming the economy and social interactions. Digitalization is both an enabler and a disruptor of businesses. The lack of a generally agreed definition of the "digital economy" or "digital sector" and the lack of industry and product classification for Internet platforms and associated services are hurdles to measuring the digital economy. This paper distinguishes between the "digital sector" and the increasingly digitalized modern economy, often called the "digital economy", and focuses on the measurement of the digital sector. The digital sector covers the core activities of digitalization, ICT goods and services, online platforms, and platform-enabled activities such as the sharing economy" (Cf. International Monetary Fund (2018).

So, what is precisely the digital economy? Digital economy can be formalized in simple words as the economic activity that is behind the connection of many different users, processes, and data. "The backbone of the digital economy is

hyperconnectivity which means growing interconnectedness of people, organizations, and machines that results from the Internet, mobile technology and the internet of things (IoT)" (Cf. Cassar, Heath and Micallef 2010).

However, we must ask ourselves today, as a society, whether it makes sense at all to talk about digital economy as if it were something radically different from what economy has looked like in the past centuries. The thoroughly distinct fact about today's economy is that it is turning mainly digital, not as a separate division, but as a new way of doing business that ranges through all sectors.

Some people believe that digital economy has brought us into a "fourth revolution" (on the matter see Schwab 2016), where dramatic change is happening at an exponential speed and it is perceptible all around us. The "fourth revolution" that Professor Schwab writes about is characterized by numerous technologies, from IoT, to robotics to Artificial Intelligence (AI) and machine learning, that make it possible to merge the digital, physical and biological worlds. There is a profound state of uncertainty regarding the development and use of these emerging technologies that infers the impossibility of predicting the effects of the transformations caused by this new revolution. However, the complexity of such transformations and the interconnection between different categories implies that governments, companies and universities have the responsibility to collaborate with each other in order to better understand the emerging dynamics.

The Internet has been booming since the mid-1990s and it has changed and enlarged radically the concepts of business. Digital economy is developing at a faster pace every other day and it's threatening traditional approaches about how companies are structured, how they operate and how they interact. Not only that, the advent of Internet has also changed how customers participate in transactions both with businesses and with each other, how they gain access to information, services, and goods, how they communicate their needs and express their preferences. Digital economy has influenced investors, administrators, public policy makers as well as lawmakers and everyone else who is either directly or indirectly involved in the new economy (on the matter see Kehal and Singh 2004). The economy of today relies on the Internet and on the digital sphere that complies with it. It implies that the latest technology is to be used to do what we already are able to accomplish, but better and faster. Digital economy is a new era of development even though it is more and more tangled with traditional economy. This is blurring the lines between their definitions,

their processes and their business models and it is making it difficult to have a clear delineation of both.

The same blur can be experienced in the digital companies' status that, as of their definition, are non-territorial companies. When the Internet just appeared and started developing the asset on which wealth resided were computer's hard drives which were local and tangible resources. As this revolution dragged on, the Internet developed faster and faster coming to be an unstoppable innovative disruption. Internet systems have become increasingly sophisticated and data rich. Today the real asset of the Internet is the cloud space and data storage that have become remote and intangible resources. This deviation provoked various consequences in the taxation field in which the Internet started to be considered as a different and new territory rather than a network instrument (Cf. Greggi 2014, 1-5.). Thus, because these digital enterprises do not have a territorial defined space in which they operate, determining where they need to be taxed is close to impossible if the "permanent establishment" clause is taken into consideration. This problem arises due to the abstractness of the services provided by digital companies. Their intangible condition does not require the presence of physical establishments in the countries where digital companies operate thus making it possible for these firms to sell their services and products by evading the States' taxation. There is no tangible link with the territory as well as there is no materialization of goods and services that are exchanged and transferred through the firms.

Moreover, to talk about digital economy and its relevance from a tax perspective we must understand the characteristics that are salient in the modern economy. As of March 2017, the Finance Ministers of G20 commanded the Task Force on the Digital Economy (TFDE) to provide an interim report on the tax challenges that are arising due to the digitalization of the economy by 2018 that would be then replaced with a final report to be delivered by 2020. Providing an in-depth analysis of new business models utilized in the digital context, the Interim Report[1] made it possible to identify three main characteristics that are frequent when observing highly digitalized business models: scale without mass, heavy reliance on intangible assets and data and user participation. Since 2018 the economy that exploits digitalization has changed and has made it possible to identify more than

[1] OECD (2018), *Tax Challenges Arising from Digitalisation – Interim Report 2018*: Inclusive Framework on BEPS, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris.

those three characteristics found by the TFDE. Now, to cite some of them, we can include in the list of attributes:

- Mobility, which is to be taken into consideration in relation to:
    - the intangible assets on which the digital economy predominantly relies;
    - the business functions localization that consents operating functions to be divided thanks to the ICT development and that allows entrepreneurial activity to be placed in different countries;
    - the users.
- High reliance on data, which was already thought to be a very important feature of the modern economy, or the so called "Big Data", with a particular regard on personal data collected from both customers and suppliers in relation to their transactions.
- Network effects which are generated by the synergies, interactions, and participation between users, which were again already taken into consideration by the 2018 Interim Report[2].
- Utilization of a particular business models which are two-sided, meaning that each part of the market in which the enterprise operates is in a distinct jurisdiction than the other.
- Propensity to the creation of either monopolies or oligopolies in some business models which rely utterly on network effects.
- Volatility generated by the high innovation in the digital sphere and lack of entry barriers in the sector[2].

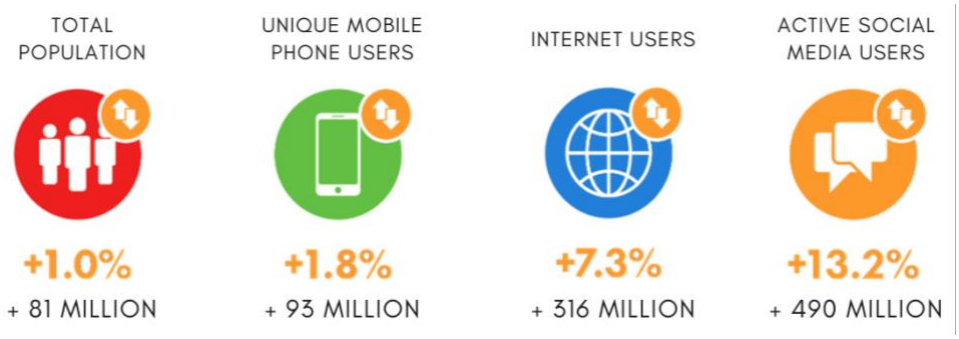
So, attributes have been found, possible definitions have been sought and yet, we still live in this period of transformation without a precise temporal and spatial placing that Professor Klaus Schwab calls "fourth revolution" (Cf. Schwab 2016). This concept believes in the use of technology as a driver for change and transformation of the society as a whole. Technology emerges and merges spheres that go far beyond the increase of efficiency. The "fourth industrial revolution" represents numerous transformations and turns in the approach of how political, economic and social value is generated, traded and administered (on the matter see Davis and Philbeck 2018, pp. 17–22.).

[2] OECD (2014), *Addressing the Tax Challenges of the Digital Economy*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris.

1.2 Internet trends

As said earlier in this paper the Internet has been growing and expanding since its advent. As of January 2021, 4.66 billion people are Internet users, comprehending around 59.5% of the world's population. With an increase of 316 million users from last year (+7.3%) the penetration of the Internet is broadening its frontiers. Numbers of Internet users, as well as those regarding social media users, have increased largely also due to the Covid-19 pandemic. Social media has experienced a growth sprint with a 13% increase in the numbers of users since last year. (see Figure n.1)

Figure n.1: GLOBAL DIGITAL GROWTH FROM JAN. 2020 TO JAN. 2021 (%) – 2021

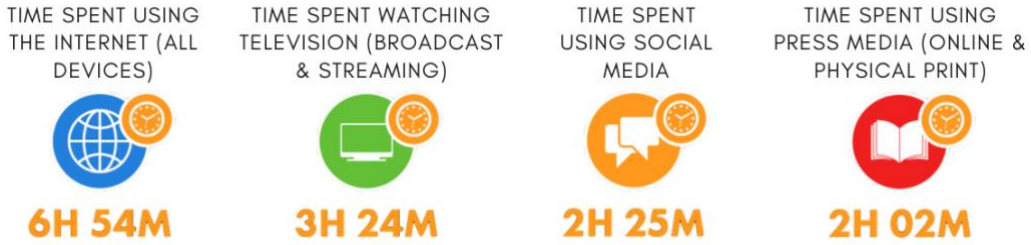


Processed by Hootsuite and We Are social from data sourced by: The U.N.; Local government bodies; GSMA Intelligence; ITU; GWI; Eurostat; CNNIC; APJII; Social media platforms' self-service advertising tools; Company earnings report; Mediascope (2021).

E-commerce continues to broaden the scope of its share while growth rates for physical retailing are falling. The rise of e-commerce is one of the conspicuous features in 2020-21. Due to the Covid-19 pandemic not only online shopping has grown significantly, but also categories of what internet users have been buying has changed and reshaped the concept of online shopping itself. We will focus on this particular point in Chapter 3 of this paper.

For the majority of the worlds' population, the Internet is now part of everyday life. Nevertheless, the usage of the internet ranges widely among social groups over different countries as a result of distinct age, education or income level. Furthermore, today mobile phones have become the "first" screen with people spending on average 6.5 hours per day (on the matter see Biltz, Carrel-Billiard and Daugherty). (see Figure n.2).

Figure n.2: DAILY TIME SPENT WITH MEDIA FROM JAN. 2020 TO JAN. 2021 (HOURS) – 2021

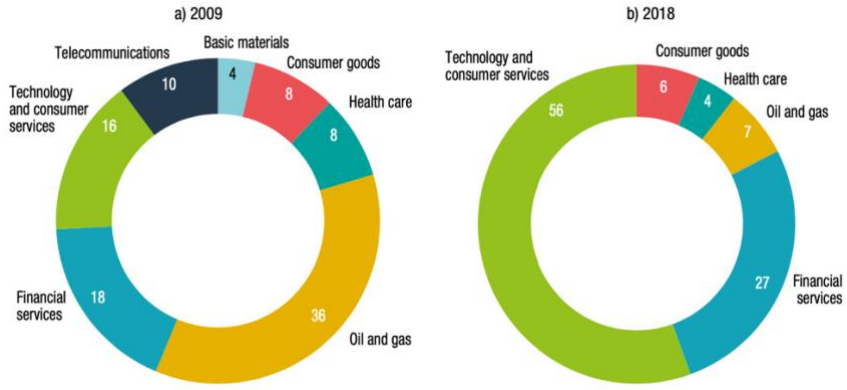


Processed by Hootsuite and We Are social from data sourced by: GWI (Q3 2020). Figures represent the findings of a broad global survey on internet users aged 16 to 64. See globalwebindex.com for more details (2021).

Up to date, people are spending a quarter of their lives ingrained with technology. Therefore, we must talk about new business models. Companies are realizing that people, nowadays, are different than they were up to twenty years ago and by becoming conscious of this changing process, enterprises have reshaped technology adjusting it to peoples' needs.

Another important point is associated with the fact that with the rising of technology companies the global business landscape has changed in composition. The digitalization process has had a transformational impact. It is most evident when we consider the growing importance over the past decade of a few big tech enterprises. The 2019 UNCTAD Economy Report: "Value creation and capture: implications for developing countries" points out a comparison, by sector, in the distribution of the 20 top companies, by market capitalization. The analysis provides data of a radical change. If in 2009 the major sector, by percentage, was the oil and gas industry, with a 35% of the total market capitalization, in 2018 only two companies from this sector remained standing in the top 20 firms, accounting for 7% of the total, suffering a huge decline. Similarly, the picture for technology enterprises had changed significantly, even if in a really contrasting way. Starting from 2009 when there here were only three companies from the technology and consumer services sector, with a market capitalization percentage of just 16%, in 2018 the industry reached a peak as high as 56% of market capitalization, counting 8 firms. (see figure n.3)

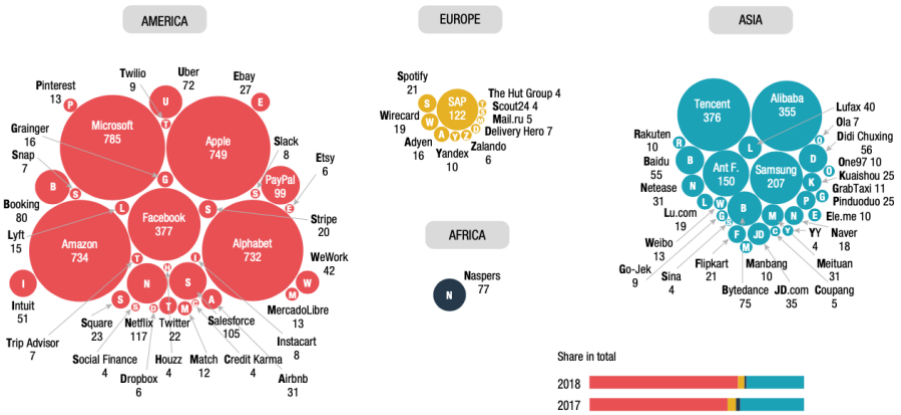
Figure n.3: WORLD'S TOP 20 COMPANIES BY MARKET CAPITALIZATION, BY SECTOR, 2009 VERSUS 2018 (%).



Processed by UNCTAD (2019) from data sourced by: PwC (2018).

Furthermore, the world's top digital end technology companies are highly concentrated geographically. The most valuable firms are located either in the United States of America or in Asia, mainly China. This geographic composition determines the high profitability of these markets due to the fact that technology is growing at a faster pace every other day and therefore brings high profitability to these countries. With 90% of the market capitalization value of the world's 70 largest digital platforms, Asia and the United States of America basically have a digital monopoly. (see Figure n.4)

Figure n.4: GEOGRAPHICAL DISTRIBUTION OF THE MAIN GLOBAL PLATFORMS IN THE WORLD – 2018 (MARKET CAPITALIZATION IN BILLIONS OF DOLLARS).



Processed by UNCTAD (2019) from data sourced by: Holger Schmidt (https://www.netzoekonom.de).

1.2.1. Internet platforms and new business models

The idea of platforms is something that has always been discussed when talking about economy and, more specifically, digital economy. Platforms are mechanisms that connect different parties and consent their interaction. Platforms can be seen both as infrastructures – as different parties can build upon them other businesses – and as intermediaries in that they connect people and enterprises. In exploring platforms, we must distinguish them based on their underlying operations (on the matter see UNCTAD 2019, pp. 25). In this sense, there are two main categories in which platforms can be divided into: Transaction platforms and Innovation platforms.

Transaction platforms have become, in the last twenty years, the core business model of the "big tech" companies – such Alibaba, Facebook, Amazon – as they are closely correlated with the whole digital transformation of the global economy. These kinds of platforms are docked to an internal infrastructure – typically an online resource –that consents them to support connections between different users. There are four broad kinds of transaction platforms that can be identified: e-commerce platforms, advertising platforms, cloud platforms and product platforms.
E-commerce platforms provide users with virtual marketplaces that consent both sellers and buyers to have lower transaction costs (e.g. Amazon, E-Bay, Alibaba).
Advertising platforms are those for which advertising revenues are the main portion of the generated added value. Enterprises that use advertising platforms rely on the advertising itself to produce high margins (e.g. Facebook, Google).
Cloud platforms are those that provide infrastructures as a service (IaaS), software as a service (SaaS) and moreover platforms as a service (PaaS). These means are essential in the data-driven economy as they all derive from cloud services.
Product platforms turned services that were traditionally considered buying models into renting ones. From the point of view of the sharing economy, renting has become the novelty. Methods have changed and enterprises have shifted their methods choosing fruition over consumption to provide users with their tailored needs.

Innovation platforms are, instead, known as technology or engineering platforms. These portals are tools for building, growing and implementing ideas towards innovation. They are a digital space in which individuals, organizations and

governments come together to identify problems and bring shared solutions to the table. If seen at industry level, these platforms provide means for sharing common ideas between actors of the same market. Standard approaches through which companies' interface within an industry – in a digital transformation technologies and ICT point of view – include common operating systems and technology criteria.

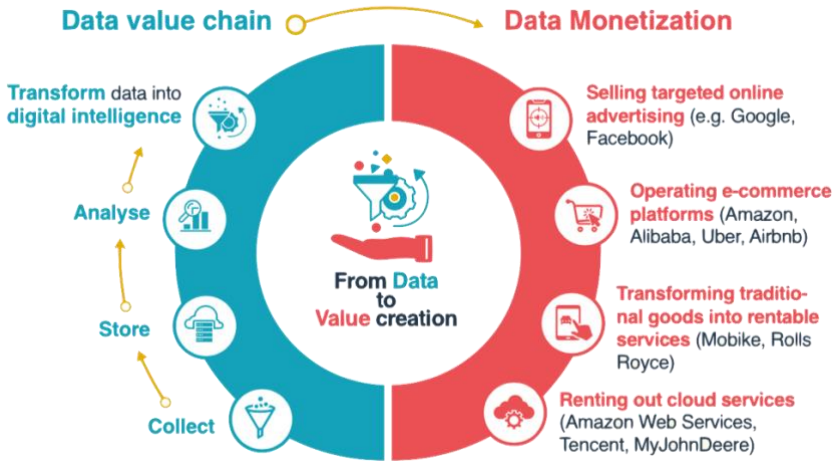
New technologies are arising, from artificial intelligence and machine learning, to cloud computing, to Internet of Things and connectivity, but also, virtual machines and augmented reality, Big Data analytics, biotech, cryptocurrencies and blockchain. All of these are changing the means through which firms operate and create value in a completely new value chain: a circular model for data value creation. This implies that new business models based on Cloud-computing, Artificial Intelligence (AI) and Big Data are being tested and implemented by those companies that have already taken a step towards digital transformation and that have embraced the consequences that this transformation has had on the economy at a systemic level.

1.2.2. Data value

Big digital companies have had the ability to use the greatest tool that the Internet has given them: the ability to own, store, process and use huge data sets gained by different actors of the market. "Data-related activities are no longer mere side activities in the production of goods and services; instead, they have become a central feature of the production process and a key aspect of economic activity", as the United Nations Conference on Trade and Development 2019 states. The integration of digital technologies into all areas of a business results in fundamental changes to how businesses operate and how they deliver value to customers.

Value creation is driven by two related and emerging main forces: platformization and the monetization of the huge quantity of digital data. In digital economy's new business models, the core actors are digital platforms and the resources that can lead to value creation are the data sets flowing on them. Because we already talked about digital platforms earlier in this paper, we will focus, briefly, on the value creation from digital data.

Figure n.5: HOW TO CREATE VALUE FROM DIGITAL DATA?



Source: UNCTAD (2019).

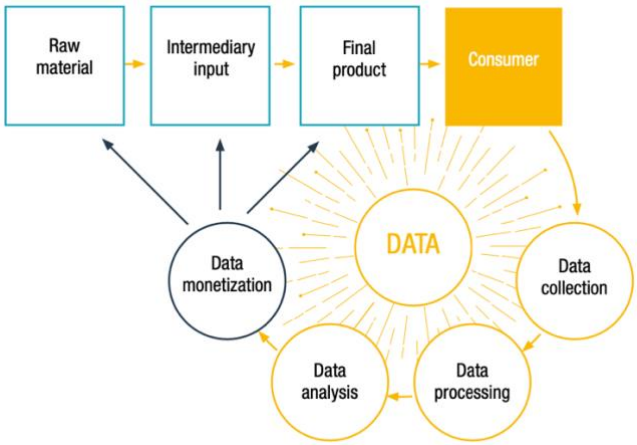
The economic value of data can be classified into three main categories: the data value chain, the data monetization and the "ownership of data" (UNCTAD 2019, pp. 24).

The data value chain is based on a circular model (see Figure n.6) whose output is "digital intelligence" (see Figure n.5). This kind of intelligence implies a high number of automated systems and machine intelligence, from algorithms to data analytics. Many of these technologies operate together with human and organizational contributions of intelligence and objectives to underpin the digital economy and to help enterprises in their decision-making and innovation efforts. Productivity in the digital economy depends highly on the appropriate use of digital intelligence which becomes "digital capital" as a result of:

- Access to a large portion of relevant data
- Supervision over their use
- Capability to process and transform the data into digital intelligence
- The implementation of such intelligence into production processes.

The value of the digital capital is originated through various forms of data monetization. Users of the digital market provide firms with all kinds of information and data about themselves: from locations to preferences to personal behavior. These sets of data become useful to companies once they are transformed into digital intelligence and therefore can be commercially used and monetized (Cf. UNCTAD 2019, pp. 51).

Figure n.6: DATA VALUE CHAIN: A CIRCULAR MODEL



Source: UNCTAD (2019).

Data is collected and processed in large data sets, but its value remains uncertain until the data is used by firms or platform owners. Hence, the true value and the potential of data are highly contextual. Another extremely circumstantial situation in regard to data sets is their ownership. Establishing property rights for data is arduous. Plus, the value of data sets cannot be sold because it is tied to the data subject himself or the producer of those same data sets. The value of the data is unique in the sense that it cannot be separated or divested from the data subject and arises only when it becomes intelligence about the same data subject.

Clearly data has value because it is compiled in large volumes and is processed and analyzed to get insights in order to enable data-driven decisions. Consequently, it is the capability of digital platforms to "aggregate, process, transmit, store, analyze and make sense of data that allows them to generate value" (Cf. UNCTAD 2019, pp. 30).

In conclusion, we can see both digital platforms and digital data sets as two sides of the same coin.

1.3 Problems of the digital economy system: tax evasion, tax avoidance, aggressive tax planning and harmful tax competition

Many institutions such as the OECD and G20 have been working constantly to eradicate some practices that result in a prejudice for the entire global system. The burden of wrong taxation is transposed not only on the economy of the countries but also, and above all, consequently, on the population. The abolishing of such alterations is therefore one of the main goals of international tax policy.

The UNCTAD "*Digital economy report 2019"* points out the current policy developments that the OECD and G20 are leading in terms of an international consensus on the taxation of the digital economy: "In January 2019, it was announced that the 129 countries and jurisdictions participating in the OECD/G20 Inclusive Framework on BEPS would increase multilateral efforts towards reaching a consensus-based, long-term solution by 2020 (OECD, 2019f). […] As part of the process towards 2020, the OECD opened a public consultation on Addressing the Tax Challenges of the Digitalization of the Economy, which includes three proposals for revising the profit allocation and nexus rules in response to digitalization. They concern user participation, marketing intangibles and significant economic presence (OECD, 2019g)." (Cf. UNCTAD 2019). Hence, OECD and G20 are working on reinforcing countries' cooperation and sharing on information regarding tax related information.

One of the courses of actions that has been implemented is the Base Erosion and Profit Shifting (BEPS) Project, already mentioned in this extract, which will be discussed further down in this paper.

By the means of cooperation, the European Union Savings Directive (Council Directive 2003/48/EC of 3 June 2003)[3] was issued so that countries would freely disclose interests earned by an EU resident to ensure that those interest be fully paid in his country of residence for taxation purposes. The Directive[3] was repealed as a consequence of the adoption, by the Council of the European Union, of the Directive 2014/107/EU[4] which entered into force on 1 January 2016. This Directive[4] amended provisions on the mandatory automatic exchange of information between tax administrations and implemented the July 2014 OECD Global Standard on automatic exchange of financial account information within the EU (Cf. OECD 2014). It broadened its scope, covering interest income as well as dividends, other kinds of capital income and the annual balance of the accounts producing such items of income (on the matter see Council of the European Union 2003, pp. 38-48).

[3] Council of the European Union (2003), "Council Directive 2003/48/EC of 3 June 2003", Official Journal of the European Union, Vol. 46, L 137, July, pp. 38-48.

[4] Council of the European Commission (2014), "Council Directive 2014/107/EU amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation on taxation of savings income in the form of interest payments", Official Journal of the European Union, Vol. 57, L 359, December, pp. 1-7.

Even though this type of measure has helped in the sharing of information, tax evasion leads to losses up to $427 billion a year in countries and governments worldwide. Tax evasion undermines both the progressive nature of income taxation and thus the bedrock of modern societies, and redistribution as one of the four key functions of taxes (Cf. Meinzer 2017).

More and more users, either personas or enterprises, shift their money to tax havens. The majority of these individuals are part of the wealthier portion of societies which are escaping their tax obligations through various practices. One of the highly used concepts is that of “round tripping”. Through this process, people funnel their savings through undeclared offshore accounts – that is, across borders, beyond the reach of their tax administrations – and then reinvest those same savings into the capital market of their home country by posing as foreign investors. As a result, these residents pay lower tax rates on investment returns (on the matter see Kemme, Parikh and Steigner 2017, pp.1-24). Tax havens therefore provide a shield of secrecy for those who seek to hide their fortunes, thus avoiding taxation and granting them higher margins on investments. The OECD has found that also enterprises, not individuals, shift each year $1.38 trillion worth of profit to tax havens where they are charged little or even no tax (Cf. Whalen 2020).

A public consultation, whose main aim was to gather feedback on the way forward for EU action on consultants, intermediaries and advisers facilitating tax avoidance, tax evasion and aggressive tax planning, was launched by the European Commission (EC) in November 2016. “Recent revelations have highlighted how certain intermediaries, such as tax advisers, helped their clients to shift profits offshore for the purposes of avoiding tax. While some complex transactions and the setting up of offshore companies may be entirely justifiable, it is also clear that other activities may be less legitimate and, in some cases, illegal” (Cf. European Commission 2016). The Commissioner for Economic and Financial Affairs, Taxation and Customs Union, at the time Pierre Moscovici, said: “Complex financial schemes and opaque corporate structures do not happen by accident: some intermediaries have developed these into an art-form. These experts offer their clients the opportunity to aggressively exploit loopholes or to shift their profits so as to substantially reduce their tax bill. The public consultation we're launching today will help us to work out ways to deter intermediaries from designing such schemes and to give our Member States greater insight and information to enable them to put

a stop to them". Him again said: "Today, we are setting our sights on the professionals who promote tax abuse. Tax administrations should have the information they need to thwart aggressive tax planning schemes. Our proposal will provide more certainty for those intermediaries who respect the spirit and the letter of our laws and make life very difficult for those that do not" (Cf. European Commission 2017).

Both in international and in European tax law, distinctions have been made between tax evasion, tax avoidance and tax planning. Unlike tax evasion, which is illegal, tax avoidance normally falls within the limits of the law. While tax evasion is associated with a criminal offence powered by the subject who fraudulently tries to escape legal obligations, tax avoidance is identified with the endeavor to minimize the amount of taxes by finding loopholes in the law. Even though it is not considered illegal, its results are abusive and improper. As for the tax planning, also defined "aggressive tax planning" (ATP), it consists "in taking advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing tax liability" (Cf. European Commission 2012). ATP is a scheme that reduces the effective tax rate of a particular kind of income to a level below that intended by fiscal policy for the same income. It involves exploiting existing gaps in a tax system and mismatches between tax systems. It can also give rise to double non-taxation or double deductions.

Another significant tool to captivate countries' investments is tax competition. However, routinely, it is used to threaten governments' capacity to assemble assets used to fund public services which, for most of the times, are represented by those essential for economic growth and development. Tax policies become harmful when tax competition forces other countries to adopt lower tax rates in order to remain competitive. There are some highly damaging tax competition practices that affect largely some countries' economy. In some cases, these proceedings erode the tax bases of other countries, thus weakening global welfare; in other cases, harmful tax competition processes make it impossible for some countries to react to unwanted spillovers as a consequence of the lack of transparency of taxation measures and their changes. Also, some of these practices wreck the integrity and the social compliance of taxation systems by establishing biases in the market by supporting precise actors to disadvantage some others (on the matter see Von Haldenwang 2018).

To reverse this current trend of engaging in harmful tax competition, countries need to cooperate because even though unilateral measures made by individual countries are powerful, they are not sufficient in response to the need for taxation of the global economy.

1.4 The Italian Digital services tax

The *Digital services tax (DST)* or *Digital tax* refers to a law proposal that aims to enforce taxation of multinational companies that operate in the digital domain. The draft's main objective is to address the acute urging for more tax justice and fairness, thereby compensating for the low level of corporate taxation of digital enterprises in the European Union.

The *Digital tax* consists of a 3% rate on the amount of taxable revenues made during the calendar year. This is an alteration made on the last Budget Law of the Gentiloni Government which was supposed to determine a tax on financial transactions with a 6% rate. Gentiloni's proposal never came into force due to the lack of implementing decrees.

Taxable persons are to be considered as those subjects for which the *DST* is due for carrying out business activities that either individually or at group level, jointly meet, in the previous fiscal year (Art. 4, par. 1, proposed EU Directive)[5]:

[5] European Commission (2018C), Proposal for a Council Directive on the common system of digital services tax on revenues resulting from the provision of certain digital services, COM (2018) 148 final, March, Brussels.
Article 4: Taxable person
1. 'Taxable person', with respect to a tax period, shall mean an entity meeting both ofthe following conditions:
(a) the total amount of worldwide revenues reported by the entity for the relevant financial year exceeds
EUR 750 000 000.
(b) the total amount of taxable revenues obtained by the entity within the Union during the relevant financial year exceeds EUR 50 000 000.
2. Where an entity reports or obtains revenues in a currency other than euro, the revenues shall be converted into euro for the purposes of paragraph 1 by applying the exchange rate as published in the Official Journal of the European Union on the last date of the relevant financial year or, if there is no publication on that day, the rate published on the previous day.
3. In paragraphs 1 and 2, 'the relevant financial year' means the financial year covered by the latest available of the financial statements issued by the entity before the end of the tax period in question.
4. The rule in Article 5(1) shall apply in determining under paragraph 1(b) whether taxable revenues are obtained within the Union.
5. Taxable revenues shall be recognised for the purposes of this Directive as having been obtained at the time when they fall due, irrespective of whether the relevant amounts have actually been paid.
6. If the entity referred to in paragraph 1 belongs to a consolidated group for financial accounting purposes, that paragraph shall be applied instead to the worldwide revenues reported by, and taxable revenues obtained within the Union by, the group as a whole.

- A total amount of revenues equal to or exceeding €750,000,000;
- An amount of revenues from digital services arising in Italy equal to or exceeding €5,500,000.

The first benchmark has been introduced so that the entrepreneurial pursuit is not prejudiced, ensuring that small and medium-size enterprises are not influenced by the *DST*. The second criterion tries to apprehend only the giants of the web that are highly exposed on the Internet market.

The tax rate applies to the revenues from digital services generated on a calendar year basis, starting from 2020. Through a provision of January 15, 2021, the Italian Revenue Agency – "Agenzia delle Entrate" – has defined the operating rules for the *DST*. Taxable persons are required to pay the *Digital services tax* by February 16 of the calendar year subsequent to the one of reference and are expected to file an annual return stating the amount of taxable revenues in the previous financial year by March 31 of the year of reference (Cf. Agenzia delle Entrate 2021). The law decreet n.3/2021[6] establishes that the payment deadline for the first application of the *Digital services tax,* which as of January 1st, 2020 came into force, is postponed to March 16, while timeline for sending the annual return file is extended to April 30.

The same measure states that taxable persons are required to collect the accounting obligations monthly and annually, and it defines the analytical statements to be drawn up and the documentation to be kept, as well as its storage methods.

For corporate groups, a single group company is designated for the fulfillment of the obligations derived from the *Digital tax* for the group as a whole; however, revenues from intra-group services are not taxable (on the matter see European Commission 2018B). Moreover, according to the new legislation, the following taxable persons shall appoint a Tax Representative to meet the accountability and payment of the *Digital services tax*:

- Nonresident subjects without a permanent establishment in Italy;

[6] Gazzetta Ufficiale della Repubblica Italiana (G.U) n. 11 del 15 gennaio 2021, Serie generale, p. 1; Decreto-legge 15 gennaio 2021, n.3, "Misure urgenti in materia di accertamento, riscossione, nonché adempimenti e versamenti tributari":
Art. 2.
1. All'articolo 1, comma 42, della legge 30 dicembre 2018, n. 145, è aggiunto in fine il seguente periodo:
«In sede di prima applicazione, l'imposta dovuta per le operazioni imponibili nell'anno 2020 è versata entro il 16 marzo 2021 e la relativa dichiarazione è presentata entro il 30 aprile 2021».

- Subjects established in a State other than a European Union Member State with which Italy has not yet concluded a mutual assistance agreement for the return of tax claims;
- Subjects established in a State other than a European Economic Area Member with which Italy has not yet established a mutual assistance understanding for the recovery of tax claims.

Italian residents that are comprehended in the same group of nonresident taxable persons are jointly liable for the *Italian DTS* obligations.

The taxable base of the *Digital tax* applies only to revenues derived from the following sets of services:

- Broadcast of data generated by the use of a digital interface and gathered from users;
- Supply of advertising on a digital network intended to users of the same network;
- Provision of a digital multilateral interface conceived to enable users to interact with each other and to facilitate the direct supply of goods or services.[7]

The new legislation states that the following services do not qualify for the *Digital services tax* purposes:

- Direct supply of goods or services between users of the interface in the context of a digital intermediation service;
- Supply of goods and services that are ordered through the supplier's website, if the supplier does not act as an intermediary;

[7] European Commission (2018C), Proposal for a Council Directive on the common system of digital services tax on revenues resulting from the provision of certain digital services, COM (2018) 148 final, March, Brussels.
Article 3: Taxable revenues
1. The revenues resulting from the provision of each of the following services by an entity shall qualify as 'taxable revenues' for the purposes of this Directive:
(a) the placing on a digital interface of advertising targeted at users of that interface;
(b) the making available to users of a multi-sided digital interface which allows users to find other users and to interact with them, and which may also facilitate the provision of underlying supplies of goods or services directly between users;
(c) the transmission of data collected about users and generated from users' activities on digital interfaces.
[…]
3. Point (a) of paragraph 1 shall apply whether or not the digital interface is owned by the entity responsible for placing the advertising on it. Where the entity placing the advertising does not own the digital interface, that entity, and not the owner of the interface, shall be considered to be providing a service falling within point (a).

- Provision of an automated interface whose main or sole purpose is to supply the users of the same interface with the interface of either communication services, payment services or digital content;
- Supply of a digital interface employed to manage financial and banking services and to transmit data from the providers of those same services;
- The achievement of the organizational and management activity of telematic platforms utilized for the transfer of gas, electric energy, environment fuels and certificates and the transmission of the related collected data.

The *DST* should apply only to revenues arising from the provision of digital services that are mostly reliant on user value creation. This decision stems for the idea that the business models that generate revenues from these services are those who are responsible for the greatest difference between where profits are taxed and where value is created.

Taxable revenues are considered gross of costs and net of Value Added Tax (VAT) and other indirect taxes[8].

A revenue is taxable if the user of the digital service is located in the territory of the State. The total taxable revenue is computed as the product of the total revenue from digital services anywhere made by each taxable person by the percentage representing the part of such services connected to the territory of the State.
The revenues deriving from digital services rendered to subjects, both resident and nonresident in the territory of the State, who are considered controlled, controlling, or controlled by the same controlling subject, must not be considered in the determination of the tax base for the *DST*.

The tax on Italian digital services is also very similar to that in force in France since June 2019, and, as well as in the French one, the clause of restitution/compensation of any surplus accrued on the differential between the future global digital tax and the amount already paid in the meantime to the Treasury has also been added to the *Italian Digital services tax.*

[8] European Commission (2018C), Proposal for a Council Directive on the common system of digital services tax on revenues resulting from the provision of certain digital services, COM (2018) 148 final, March, Brussels.
Article 3: Taxable revenues
2. The reference in paragraph 1 to revenues shall include total gross revenues, net of value added tax and other similar taxes.

As of January 1st, 2020, Italy's *Digital services tax* came into force. The Italian legislation has been inspired by the proposed COM Directive (2018) 148 final[9], a European Commission Directive proposal, presented on March 21, 2018, as part of a package of measures for the fair taxation of the digital economy prepared by the EU Commission pending definitive solutions of international nature within the OECD.

Some say it is expected that around €708,000,000 of revenues to be gathered from 2020. The implementation of the *DST* should also allow in as little as 18 months the recovery of the resources that were lost due to the not pursued 2019 proposal (on the matter see Galimberti 2019).

1.5 The Italian Web tax

Echoing the previous occurrences of numerous European Union Member States, the Italian legislator has tried, since 2013, to remedy to the profit shifting and base erosion activity carried out by multinationals. Big digital corporations have established subsidiaries in several States, which derive substantial profits, often exempt, or taxed as a result of evasive maneuvers designed to allocate incomes in countries with privileged taxation (Cf. Parente 2018, pp. 264 ss).

In this landscape, Italy has tried several times to institute the so called *"Web tax"*, a "fiscal tool who lived a regulatory procedure rather tormented and for which it has been necessary proposals, united by the same finality: to subject to tax network giants to ensure tax fairness and ensuring compliance with the competition rules" (Cf. Parente, pp. 257).

Article 1, paragraph 1011 of the 2018 Budget Law[10] established the *Web tax* which is to be referred as the tax on digital transactions relating to the provision of services by anyone rendered, by electronic means, to subjects residing in Italy. Its

[9] European Commission (2018C), Proposal for a Council Directive on the common system of digital services tax on revenues resulting from the provision of certain digital services, COM (2018) 148 final, March, Brussels.

[10] Gazzetta Ufficiale della Repubblica Italiana (G.U.) n. 302 del 27 dicembre 2017, Serie generale, n. 205, p. 219 ss., "Bilancio di previsione dello Stato per l'anno finanziario 2018 e bilancio pluriennale per il triennio 2018-2020".
Art. 1, comma 1011. *"È istituita l'imposta sulle transazioni digitali, relative a prestazioni di servizi effettuate tramite mezzi elettronici rese nei confronti di soggetti residenti nel territorio dello Stato indicati all'articolo 23, comma 1, del decreto del Presidente della Repubblica 29 settembre 1973, n. 600, diversi dai soggetti che hanno aderito al regime di cui all'articolo 1, commi da 54 a 89, della legge 23 dicembre 2014, n. 190, e dai soggetti di cui all'articolo 27 del decreto-legge 6 luglio 2011, n. 98, convertito, con modificazioni, dalla legge 15 luglio 2011, n. 111, nonché delle stabili organizzazioni di soggetti non residenti situate nel medesimo territorio."*

main objective was to ensure taxation of the related business profits of the so called "web companies". As said, it was established by the 2018 Budget Law and introduced on January 1, 2019. The task of identifying which services were actually subject to tax was delegated, by paragraph 1012[11], to a decree of the Minister of Economy and Finance to be issued by April 30, 2018. The Ministerial decree was never adopted.

As for the Digital services tax, the *Web tax* consisted in a 3% rate on the amount of the fees relating to the supply of these services net of Value Added Tax (VAT), even though, according to the provisions of the amendment, a 6% rate was initially established.

The scope of application of the tax is limited only to services performed in favor of private subjects qualifying as withholding agents (subjects referred to in Article 23, paragraph 1, of Presidential Decree n.600/1973)[12], therefore it is considered that the intervention is capable of affecting only the so-called relationships business to business (B2B). Business to consumer (B2C) transactions are therefore excluded from the scope of the tax. The *Web tax* is applied to the lender, either resident or nonresident, who carries out a total number of transactions exceeding 3,000 units in the course of a calendar year. On one hand the determination of the tax assumption, the taxable persons and the application methods were original and uncertain, on the other hand, certainties concern the rate, the methods of assessment – the same as for the VAT – and the fact that its collection is independent from that of other taxes.

[11] Gazzetta Ufficiale della Repubblica Italiana (G.U.) n. 302 del 27 dicembre 2017, Serie generale, n. 205, p. 219 ss., "Bilancio di previsione dello Stato per l'anno finanziario 2018 e bilancio pluriennale per il triennio 2018-2020".
Art. 1, comma 1012. *"Le prestazioni di servizi di cui al comma 1011 sono individuate con decreto del Ministro dell'economia e delle finanze da emanare entro il 30 aprile 2018. Si considerano servizi prestati tramite mezzi elettronici quelli forniti attraverso internet o una rete elettronica e la cui natura rende la prestazione essenzialmente automatizzata, corredata di un intervento umano minimo e impossibile da garantire in assenza della tecnologia dell'informazione."*
[12] Gazzetta Ufficiale della Repubblica Italiana (G.U.) n. 268 del 16 ottobre 1973, Serie generale, Decreto del Presidente della Repubblica 29 settembre 1973, n. 600, "Disposizioni comuni in materia di accertamento delle imposte sui redditi".
Art. 23, Ritenuta sui redditi di lavoro dipendente. *"Gli enti e società indicati nell'art. 2 del decreto del Presidente della Repubblica 29 settembre 1973, n. 598, le società e associazioni indicate nell'art. 5 del decreto del Presidente della Repubblica 29 settembre 1973, n. 597, e le persone fisiche che esercitano imprese commerciali ai sensi dell'art. 51 di detto decreto o imprese agricole, i quali corrispondono compensi e altre somme di cui all'art. 46 dello stesso decreto per prestazioni di lavoro dipendente, devono operare all'atto del pagamento una ritenuta a titolo di acconto dell'imposta sul reddito delle persone fisiche dovuta dai percipienti, con obbligo di rivalsa."*

As for the terms used in the Budget law, essentially, the "services provided by electronic channels" are considered to be those provided through the Internet or a digital network whose essence makes the performance predominantly automated, guided by minimal human intervention and impossible to guarantee in absence of information technology. Moreover, the concept of "permanent establishment" and the definition that Italy has accepted is similar to that of other countries in Europe and complies with the recommendations of the OECD in this regard: "permanent establishment" is intended as a fixed place of business through which the company carries out its business in whole or in part.

The need for the *Web tax* was also indeed solicited by the associations concerned to avoid further accentuating the tax disparity between the giants of the web – as Google, Amazon, Microsoft, Alibaba and many more – and the national companies operating online. However, the *Web Tax* was repealed even before it came into force and left the stage to the *Digital services tax.*

So, to summarize, after two false starts, those of 2018 and 2019, the *Digital services tax* debuted in Italy on January 1, 2020. By waiting for a global and globally shared solution the Italian Parliament has already made a step forward to a more just and equitable taxation.

CHAPTER 2 – PROPOSALS OF INTERNATIONAL TAXATION

2.1 OECD Proposal for digital taxation

As already mentioned in the previous chapter, digitalization has changed the way in which the economy operates and the way in which authorities carry out taxation plans. The escalation of the digital economy has made it very clear to national and international institutions that the tax regime used since the advent of taxation itself cannot be put into place in this scenario. Digitalization has reshaped the field of taxation mainly because the digital economy is not based on the link between the requirements of tangibility and spatiality, which were instead characteristic of non-digital economy.

The Organization for Economic Co-operation and Development (OECD) is an international organization whose goal is "to shape policies that foster prosperity, equality, opportunity and well-being for all", as their mission states. Since the beginning of its duties, the OECD has always been moving forward to strengthen international cooperation and to create a more inclusive framework between countries.

Following the progress of globalization and the implementation of new business models, national laws have proved inadequate when it comes to multinationals' aggressive tax practices. A forward-looking and integrated policy framework is needed when dealing with taxation so to fully grasp the potential of the digital transformation along with its challenges. Because today's economy finds its roots in the digital transformation, the OECD has been implementing some plans to address the digitalization and the digital economy's taxation at an international level.

By 2012 the G20 heads of state or governments requested an action plan that was presented later in 2013 at the G20 finance ministers' meeting in Moscow, with the name of "Base Erosion and Profit Shifting (BEPS) Project". The BEPS Action Plan will be discussed later in this document as its importance is of extreme relevance. However, this was not the first time that the OECD had investigated the digital economy and the issues concerning its taxation. In the late 1990s three summits were held in Turku, Finland, in Ottawa, Canada and in Paris, France to indicate the interrelation and need of an international agreement in the taxation field. It was in these three symposiums that countries started deliberating on the requisite

of a new, different, and revolutionary approach towards the application of tax rules in the new digital economy.

In addition, the phenomenon of digital economy and its taxation methods have been the object of further examination. After the 2015 Final Report[13] of the BEPS Project, the OECD together with the G20 have continued working on the implementation of the plan and its broader perspectives, as well as they continued cooperating to "complete pending work and ensure an efficient targeted monitoring of the agreed measures", as said in the OECD/G20 Base Erosion and Profit Shifting Project Explanatory Statement[14] of 2015. Also, if the commitment of both institutions was established to end in 2020, the OECD has persisted its collaboration with the G20 leaders so much so that in February 2021 the international organization has presented a report to G20 finance ministers and Central Bank governors not only to update the progress they are making in addressing the digitalization of the economy but also to report further updates on other G20 tax deliverables such as tax transparency and the implementation of the BEPS measures and capacity building to support developing countries (OECD 2021).

The digital economy system furnishes enterprises with many methods to pursue their goal of ever lower taxation. Together with tax avoidance and tax evasion – which have been already examined in this paper – the digital economy brings to the table the "double-taxation" issue, showing more and more tendencies of illegal conducts and taxation breaches. The need for a more inclusive and common taxation method seems therefore inevitable for the purpose of reducing, if not eliminating, these unfair practices.

It is clear by now that tax laws' institutions must adapt to the changing economic system and its characteristics since, as of today, the number of purely intangible assets that are being digitally transferred is increasing inexorably and each states' national borders do not match anymore with the geographical ones.

[13] OECD (2015A), *Addressing the Tax Challenges of the Digital Economy, Action 1 - 2015 Final Report, OECD/G20 Base Erosion and Profit Shifting Project*, October, OECD Publishing, Paris.
[14] OECD (2015B), *Explanatory Statement, OECD/G20 Base Erosion and Profit Shifting Project,* October, OECD Publishing, Paris.

2.1.1 Base Erosion and Profit Shifting (BEPS) Project

Due to the abovementioned strategies that enterprises and companies have been exploiting to artificially transfer their profits to tax-free locations or other countries where lower tax rates have been established – tax evasion and tax avoidance – the OECD, together with the G20, have been working on the implementation of the already mentioned “Base Erosion and Profit Shifting” (BEPS) Project. With it they wanted to establish an international and modern framework in which taxes are being fully paid in the country where the value of their economic activity is created. The BEPS project acts in mainly two directions: the fight against the tax base erosion and the shifting of profits to countries with low or no taxation, known as "profit shifting".

As of today, more than 135 countries and jurisdictions are working together to implement the 15 measures that the BEPS package wants to provide to address tax avoidance, to enhance the coherence of taxation rules and to ensure transparency in the tax domain at an international level.

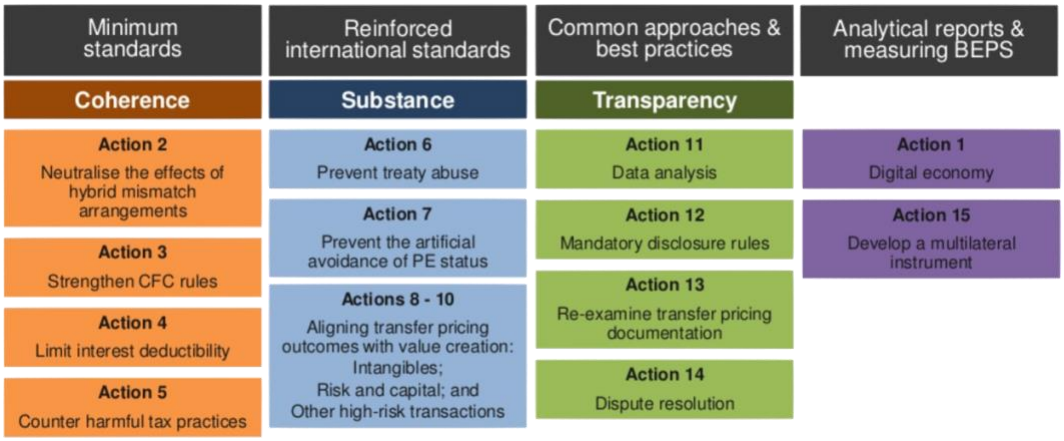
The BEPS Action Plan was endorsed at the G20 meeting of Saint Petersburg in 2013 by heads of governments after the visibility of the failure of cross-border taxation was visible at a political level. There was an urgency to keep up with the reality of the new finance and the modern commerce. Political attention reached not only finance ministers but also some heads of state, making it difficult to overcome the political significance of addressing an issue such the OECD/G20's BEPS Project (Cf. Osborne, Moscovici and Schäuble 2013).

The 15 actions that have been provided as the core of the BEPS Package to countries have given their institutions and governments measures for ensuring that enterprises’ profits are being taxed within the jurisdiction in which their added value is created, in terms of business activity. These means also provide higher security of the companies by minimizing frictions regarding the application of the international fiscal guidelines and standardizing compliance requirements.

The BEPS Action Plan addresses international taxation problems that are thought to be some of the most difficult issues confronted in recent decades from the international tax regime. If the first and the last of the actions – Action 1 and Action 15 – can be considered cross-cutting, the other actions can be divided in three main pillars which define the maneuver plans (see figure n.7):

- Pillar 1 holds actions from 2 to 5 and its aim is that of improving the coherence of national tax regimes across borders
- Pillar 2 holds actions from 6 to 10 and its aim is that of reinforcing substance requirements underlying the international standards
- Pillar 3 holds actions from 11 to 14 and its aim is that of enhancing transparency, exchange of information and legal certainty

Figure n.7: OVERVIEW OF BEPS ACTIONS BY THEME



Source: OECD (2016) Base Erosion and Profit Shifting (BEPS) OECD - Organisation for Economic Co-operation and Development Tax Talks No.1, June, SlideShare Published, Paris.

Regardless of this grouping, all the 15 actions of the BEPS Package need to be undertaken by the countries who want to achieve all of the objectives for which the BEPS Action plan was created. Thereupon, it seems necessary to list them as they were conceived:

Action 1. The challenges arising from digitalization

Action 2. Neutralizing the effects of hybrid mismatch arrangements

Action 3. Controlled foreign company

Action 4. Limitation on interest deductions

Action 5. Harmful tax practices

Action 6. Prevention of tax treaty abuse

Action 7. Permanent establishment status

Actions 8-10. Transfer pricing

Action 11. BEPS data analysis

Action 12. Mandatory disclosure rules

Action 13. Country-by-country reporting

Action 14. Mutual agreement procedure

Action 15. Multilateral instrument

There is no claim in this context to exhaustively address all the issues mentioned above. After all, they are the main issues of tax law. However, a reflection seems necessary since this thesis is based on some of these aspects.

"Base erosion and profit shifting (BEPS)" refers to tax implications that may result in double non-taxation or erosion of the tax base in high-taxation jurisdictions.

With the advent and evolution of the digital economy, the main issue of "double taxation" that the BEPS Action Plan was aiming to solve has turned into a "double non-taxation" problem. This tendency arose mainly as a result of the gaps between different tax systems and their interactions as well as some tax treaties ratified amidst countries. If "double taxation" is identified with the taxation, at the same time and for the same period, of the same income in two different states – with the person's income becoming the object of taxation – "double non-taxation" leads to "a reduction of the overall tax paid by all parties involved as a whole" (OECD 2013, pp.15). In the "double non-taxation" scenario, earnings from transnational enterprises, investments or cross-border activities are subject to unreasonably low taxation or are not taxed at all. Even though the OECD's Action Plan on Base Erosion and Profit Shifting of 2013 states that "double non-taxation […] harms competition, economic efficiency, transparency and fairness", it also underlines the fact that "no taxation or low taxation is not per se a cause of concern, but it becomes so when it is associated with practices that artificially segregate taxable income from the activities that generate it".

There are two sides of the same coin: on one hand "double taxation" becomes a drawback for both the employer and the employee who undertake transnational affairs, creating a clear obstacle to fair competition in the market; on the other hand, "double non-taxation" has an adverse effect on a country's financial prosperity, therefore affecting a supranational authority as the EU (Kiss and Erdős 2019, pp. 2-5).

Again, the digital economy is becoming the economy itself as also the Action 1 of the BEPS Project states: "Because the digital economy is increasingly becoming the economy itself, it would be difficult, if not impossible, to ring-fence the digital economy from the rest of the economy for tax purposes" (OECD 2015A, pp. 142). This is one of the many reasons why OECD's plans are still in action and why

reports on Pillar one[15] and Pillar two[16] have been presented in 2020 as a step forward towards a more inclusive and interrelated international agreement on taxation.

2.1.2 Pillars

The OECD has been tirelessly working on building a mutual bond between countries on digital economy's taxation since the beginning of the OECD and G20's BEPS Project. However, their commitment and hard work have not yet found common ground on the way forward. Politicians, academics, heads of state or governments have been drained into this project whose next future will establish taxation at all levels of economy.

Because the Inclusive Framework on BEPS was still ongoing, by March 2019, the G20, the OECD and the Task Force on Digital Economy (TFDE) have sought public comments on possible solutions regarding the tax challenges arising from digitalization. The Consultation Document[17], however, was anticipated by the Policy Note[18] that the Inclusive Framework approved on January 23rd, 2019. Both documents have been deeply analyzed and the Inclusive Framework has provided consensus on the way forward for what concerns the proposals involving two pillars, for which blueprints have been released as a foundation for a future agreement "with the potential to achieve a fairer and more efficient allocation of taxing rights" (OECD 2020B, pp. 8).

Pillar I has been designed with its focus on taxing rights' allocation, while Pillar II addresses all the remaining BEPS issues. However, these two guidelines have some premises and aims on which they have been formulated: the tax maneuvers that have been drafted – to tax the digital economy – want to reassign taxing rights at an international level – on a broader scale of action – and want to endeavor for the end of the spread of those practices that undermine fair competition

[15] OECD (2020B), *Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint: Inclusive Framework on BEPS, OECD/G20 Base Erosion and Profit Shifting Project*, October, OECD Publishing, Paris.
[16] OECD (2020C), *Tax Challenges Arising from Digitalisation – Report on Pillar Two Blueprint: Inclusive Framework on BEPS, OECD/G20 Base Erosion and Profit Shifting Project*, October, OECD Publishing, Paris.
[17] OECD (2019A), *Addressing the Tax Challenges of the Digitalisation of the Economy – Public consultation document*, March, OECD Publishing, Paris.
[18] OECD (2019B), *Addressing the Tax Challenges of the Digitalisation of the Economy – Policy Note, OECD/G20 Base Erosion and Profit Shifting Project*, January, OECD Publishing, Paris.

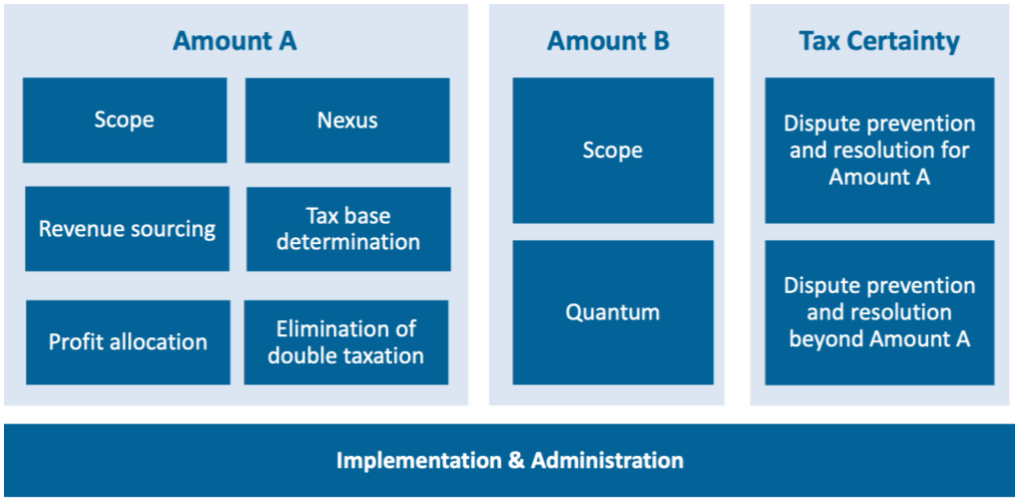
– referring to tax avoidance, tax evasion and aggressive tax planning; in a narrower optic.

The elements that compose Pillar I can be grouped and divided into three main components, each one of which has subordinate clusters:

- Amount A: a new taxing right for market jurisdictions over a share of residual profit calculated at a multinational enterprise (MNE) group level,
- Amount B: a fixed return for certain baseline marketing and distribution activities taking place physically in a market jurisdiction (with the outcomes consistent with the arm's length principle – that is, the condition of the parties of a transaction being independent and on equal footing)
- Processes to improve tax certainty through effective dispute prevention and resolution mechanisms (OECD 2020B).

There are eleven subordinate clusters or "building blocks" that constitute the basis of Pillar I's blueprint (see Figure n.8). These crucial factors need to be addressed so to have a feasible solution that controls and minimizes compliance fares.

Figure n.8: BUILDING BLOCKS OF PILLAR I



Source: OECD (2020), Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint: Inclusive Framework on BEPS, OECD/G20 Base Erosion and Profit Shifting Project, October, OECD Publishing, Paris.

All the building blocks land on an audit of the "nexus" concept that establishes market jurisdictions – that lay under Amount A – to gain yield reallocation and sourcing rules. This first Pillar is based on three approaches that the OECD has set forth:

- User contribution: its purpose is that of lining up business that derive from users – with the correlation of value creation – to taxation in a determined

jurisdiction. Because the creation of digital value is tied to the presence and existence of users, the OECD suggests the "residual profit split" – that is, splitting the residual profits that stem from the reduction of profits made by routine functions of both parties involved from total profits – to be reallocated. Also, the OECD proposes the value created by users to be handled as business profits in each country. By implementing this proposal taxing rights would be radically changed due to the shift of the tax link to the market region in which the user is located.

- Significant economic presence: its aim is that of changing to a formula base the permanent establishment threshold making it possible to allocate profits to countries based on the interactions via digital platforms between users and the enterprises. The suggestion is meant to change the nexus rule based on residency and shifting it to an economic-based nexus rule so to also include in the concept of economic presence the value and the profits that derive from the supply of digital services. These include – as already mentioned in Chapter 1 when analyzing the Digital Services Tax – the collection, the storage, the analysis, and the use of data.
- Marketing intangibles: this approach's purpose is based on the allocation of profits to territories in which the enterprise – taxpayer – has originated intangible assets associated with its clients – users for the digital ones. In this case, however, it is not the users who create and generate value but it's the MNE itself that, through various activities, targets its customer base promoting and advertising its brand and therefore creating a brand equity that will be taxed in the market territory.

If Pillar I was built to reach a new tax right and profit allocation rule, Pillar II's main approach is that of protecting the tax base; a goal that was already undertaken by the BEPS Project. Pillar II proposes to revision and uphold the tax protection principle and aims for the eradication of harmful tax practices. As the 2020 Tax Challenges Arising from Digitalisation Report on Pillar II Blueprint states, Pillar II "provides a solid basis for a systemic solution […] and sets out rules that would provide jurisdictions with a right to "tax back" where other jurisdictions have not exercised their primary taxing rights, or the payment is otherwise subject to low levels of effective taxation". The suggestion of the OECD encompasses a proposal which name is GloBE (Global Base Erosion) consisting in a series of initiatives to

achieve a minimum taxation in cross-border revenue streams and substantiates a scheme to tax competition.

2.2 The role of the G20

The G20, as an international forum composed of the European Union and 19 countries, puts together governors and central banks' governors for the aim of discussing policies fostering financial stability at an international level. As of today, it is representing the world's major developed and emerging economies. Because of that and because of the strategic importance of the forum, the G20 has a crucial role in setting the path for the economies of the world and in paving their future in terms of growth.

Since 1999 – year of the G20's foundation – the forum has been meeting each year to discuss international matters. Although, it was only in November 2008 – after the global financial crisis – that the G20 managed economic, monetary, and fiscal policies with a shared and common idea to set the global economy on its path to recovery. From the time of the Washington D.C. yearly summit, the G20 has expanded its agenda to move its plans into a more long-term perspective.

Because of their knowledge and specificity of their inputs, many international organizations have been attending the G20's conferences each year. In this scenario, at the invitation of each G20's Presidency – for which Italy has assumed the role for 2021 – the OECD has been acting as a strategic advisor for the forum. Not only that, but also the OECD has been providing G20's leaders ever since with data, analytical reports and proposals on specific topics to seek a financial market regulation as well as international trade and global economic growth.

G20 leaders have found in the OECD not only a strategic advisor, as already declared, but also an active partner. From this point of view, the Organization for Economic Co-operation and Development has supported the G20 process in various stages. From setting global standards on major issues to strengthen the global governance to preparing reports and analysis on which policy options have been subsequently provided, the OECD has played a key role in ensuring policies' coherence on a global scale.

2.3 Common Consolidated Corporate Tax Base (CCCTB)

The European Union has been moving, since 2001, towards a system whose purpose is that of harmonizing corporate income tax bases for enterprises operating in the EU member states; an arduous and formidable task. From that year on, the European Commission has given this goal the maximum priority, focusing as much on the changes required in the tax systems as on the tax bases of those systems. However, the proposal has yet to come into force. The result of a common consolidated corporate tax base would pose as a solution to overthrow some challenges of the digitalization of the economy and its taxation methods.

Taxing multinational companies that operate in different states becomes a challenge when tax base settings are taken into account. An initial hypothesis for a common consolidated corporate tax base was first made in 2011 – with the directive COM (2011) 121 final[19] – to tackle some fiscal restraints and to grow the European Single Market. The basis of the proposal was that of elaborating an optimal regime of common rules to calculate the tax base of enterprises which were fiscally resident in the EU. However, by the time the directive was proposed, the Commission thought it was too ambitious of a plan for Member States to agree upon. Albeit the fact that the proposal did not move forward, in 2015 the Commission decided for the withdraw of that same proposal and for the elaboration of a new one, as the project for a CCCTB was still current. This time, the directive proposal would be characterized by a mandatory element of a multi-stage approach. Therefore, by October 2016, the EU Commission introduced and presented two proposals for directives, each of which represents one phase of the one single reform: the "Common Corporate Tax Base" (CCTB) and the "Common Consolidated Corporate Tax Base" (CCCTB) – COM (2016) 685 final[20] and COM (2016) 683 final[21] respectively. Their aim was that of consolidating the EU systems that compute taxable incomes so to have the cross-border companies comply with a single system.

[19] Council of the European Union (2011), *"Council Directive 2011/0058 (CNS), Proposal for a COUNCIL DIRECTIVE on a Common Consolidated Corporate Tax Base (CCCTB)",* COM (2011) 121 final, European Commission, March, Brussels.
[20] Council of the European Union (2016A), *"Council Directive 2016/0337 (CNS), Proposal for a COUNCIL DIRECTIVE on a Common Corporate Tax Base"*, COM (2016) 685 final, October, Strasbourg.
[21] Council of the European Union (2016B), *"Council Directive 2016/0336 (CNS), Proposal for a COUNCIL DIRECTIVE on a Common Consolidated Corporate Tax Base (CCCTB)"*, COM (2016) 683 final, October, Strasbourg.

The first proposal, referred as the CCTB, suggests some canons for the computation of a common tax base for corporate tax.

The second one, referred as the CCCTB, is mainly concerned with the consolidation of the tax base of one group's member companies. In this last case, some rules are defined to attribute a percentage of the taxable profits to each member of the group as well as the participation conditions of the members (Senato della Repubblica 2017). By the presented solution of the CCCTB, all group members would add together their tax bases so to have a consolidated tax base. This tax base would be common to all the members of the group and would be the resolution of a computation that disregards both profits and losses of the negotiation made between group members – that is, from intra-group dealings.

In essence, both proposals have been thought as a set of directives to calculate companies' taxable profits in the EU and as a way to find a common tax base. Yet, the address of the proposal for the Council Directive COM (2016) 683 final[23] for a "CCCTB" would result in a reassessment and readjustment of some key elements in the taxation field: from the "permanent establishment" definition to the notion of "economic presence".

With a communication made by the European Commission to the European Parliament and the Council, it has been made clear that in order to have companies develop, innovate, grow and invest in research and development, a level playing field to avoid tax arbitrage must be enacted. The communication – COM (2017) 547 Final[22] – wants to endorse an efficient and fair tax system for the European Digital Single Market that would trigger a higher competition along with a fairer taxation method.

2.4 The European "Interim Web Tax"

The European "Interim Web Tax", as the name suggests, wants to endorse and provide a common and unified taxation regime for enterprises to set forth in all countries. The concept of an Interim Web Tax has already been mentioned when analyzing the Italian Digital Services Tax that came into force on 1st January, 2020 in

[22] Commission of the European Union (2017), *"Communication from the Commission to the European Parliament and the Council: A Fair and Efficient Tax System in the European Union for the Digital Single Market",* COM (2017) 547 final, September, Brussels.

Italy as a first step towards definitive solutions of international nature. The "Interim" solution wants to point out that we are addressing a conjunctural matter looking for a common solution. In this context the main aspects and key points of establishing a universal taxing policy want to be briefly discussed.

As the elaboration of a new taxation approach, the European Commission has presented on 21st March, 2018 a proposal for a 3% rate fee of the turnover generated by digital enterprises. The proposal – COM (2018) 148 final[23] – has been matched with another scheme – COM (2018) 147 final[24] – that enacts rules relating to the corporate taxation of a significant digital presence. However, both suggestions do not end there. Along with these recommendations, the European Commission has been working on the regulatory structure to assess the physical presence of digital companies in the European Union. In this context the notion of permanent establishment – which was already analyzed in Chapter 1 of this thesis – has to be evaluated and taken into consideration. The "permanent establishment" clause was extended to digital services and products as the Commission Recommendation relating to the corporate taxation of a significant digital presence states that "the term "permanent establishment" shall also include a "significant digital presence" through which the business of an enterprise is wholly or partly carried on" (European Commission 2018A, pp. 2).

Today's tax rules fail to fit the global economy and its main digital aspects mainly because profit and value are created in such ways and places that mismatch with where taxes are being paid. The legislative proposal that the Commission suggests is that of reforming corporate tax rules so that surpluses are registered and taxed where businesses have notable correspondence with users through digital channels. Therefore, the "Interim Tax" wants to cover the major digital deeds that for some reason still escape tax utterly in the European Union.

[23] European Commission (2018C), Proposal for a Council Directive on the common system of digital services tax on revenues resulting from the provision of certain digital services, COM (2018) 148 final, March, Brussels.

[24] European Commission (2018B), *Proposal for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence*, COM (2018) 147 final, March, Brussels.

2.5 Applications in other countries

Being conscious that the economy is experiencing a deep digital transformation, many countries have started addressing the international issues that derive from this change. Starting with the European Union and then broadening the scope to the entire globe, several nations are moving towards the common direction of finding new ways to tax those MNEs that profit mainly from the provision of digital services and from the interactions that users undertake with them. There is no claim in this context to thoroughly analyze all the different proposes that countries have suggested and neither to identify which of these issues remain a key problem for the market economy, as this has already been discussed previously and will be further investigated in the conclusion. However, being aware of the fact that countries have set a common goal to eradicate harmful tax practices and minimize the damage that tax evasion and tax avoidance may cause, the intent in the next paragraphs is that of understanding which approaches, either similar or with a different history path, have been carried out in two countries with which Italy has always had deep relations: France - another country in the EU that has adopted a similar approach - and the United States of America, that started from one point of view and has developed its angles since the new Biden Administration took office.

2.5.1 USA: from the Internet Tax Freedom Act to Yellen's new approach

Since 1998 The United States of America have proven to be against the taxation of Internet access and the imposition of multiple and discriminatory taxes on electronic commerce. As a result, the "Internet Tax Freedom Act" (ITFA) was enacted that same year on 21st October and signed into law as title XI of Public Law 105-277[25] by former President Bill Clinton implementing a three-year moratorium preventing federal, state, and local governments from these kinds of taxation. The three-year moratorium has been extended eight times by the United States Congress, three of which were made during the former President Barack Obama's Administration, before becoming a permanent statute. The extension of the moratorium brought with it some changes in the definition of "Internet access" so to

[25] United States of America 105th Congress (1998), Public Law 105-277, 112 STAT. 2681, Congressional Record Vol. 144, October, Washington D.C.

include, or sometimes exclude – depending on which extension was made and by which party – services and technologies that were often just arriving on the market (Stupak M. 2015).

In addition to the three-year moratorium, another clause was established in the Internet Tax Freedom Act: the grandfather clause – that is, "a provision included in a new rule or regulation that exempts a business that is already conducting business in the area addressed by the regulation from penalty or restriction", as Nasdaq Glossary reports. This clause prevented the federal government from regulating those states which had already imposed and collected a tax on Internet access before the date in which the provision was adopted. The moratorium remained temporary until 2015, when the "Trade Facilitation and Trade Enforcement Act" – Public Law 114-125[26] – passed both in the House of Congress and in the Senate. From that point on, the moratorium on taxing Internet access became permanent. The "Permanent Internet Tax Freedom Act" (PITFA) will be fully implemented nationwide once the Senate votes for its entrance into force – the bill has passed the House of Congress but still awaits for the Senate vote. With the commencement of the PITFA the few grandfathered states remaining – Hawaii, New Mexico, Ohio, South Dakota, Texas, and Wisconsin – will stare a combined loss in revenue near to $1 billion (Bologna J. 2020).

The moratorium and more generally the ITFA itself were implemented as public policies as they had economic and fairness implications. The aim was that of promoting and maintaining the Internet active to extract all the potential that this tool had, and still has, on multiple levels: from information and education to, more than anything else, commercial potential.

The United States of America have always been against the taxation of the internet and of its access – as already mentioned. However, the new President Biden's Administration, and more precisely the United States Secretary of the Treasury Janet Yellen, have given a cardinal turning point on the OECD and G20's project to apply a digital tax on the internet giants, also known as "big tech" companies. Secretary Yellen stated that "The US is no longer advocating for safe harbor implementation" at the G20 finance ministers meeting of 26th February, 2021, marking a change in international economic policy. The "safe harbor"

[26] United States of America 114th Congress (2016), Trade Facilitation and Trade Enforcement Act of 2015, Public Law 114-125, 130 STAT. 122, H.R. 644, Congressional Record Vol. 161, February, Washington D.C.

implementation was highly pushed by the former President Donald Trump. The measure would have allowed large digital companies to abide by any international agreement on a voluntary basis, thus allowing "big tech" companies to escape taxation through optional taxation and therefore renouncing to everything that was previously internationally agreed on. This change of the course of action is a major breakthrough that opens the way for an international agreement comprehending the United States of America, one of the biggest and strongest digital economies in the world.

Furthermore, in the same G20 meeting in February 2021, a U.S. Treasury official stated that the US "will engage robustly to address both pillars of the OECD project, the tax challenges of digitisation and a robust global minimum tax", as the Financial Times reports (Politi J. et al. 2021). Secretary of the Treasury Yellen also made a step forward towards a harmonized minimum corporate tax on an international level, echoing President Joe Biden's proposal. By announcing these positive statements towards a fairer and more efficient taxation system on a global scale, the United States of America are relaunching their leadership, which seems to be one of the key points on which the new Administration wants to start off.

2.5.2 The French Digital Service Web Tax

France is one of the European Countries who has decided to introduce its own Web Tax due to the lack of progress in the global scenario. In July 2019 France's President Macron announced a bill - n°2015-759[27] – that would become retroactively effective from 1st January, 2019. This law is very similar to the one that Italy has implemented since the French Digital Service Tax (DST) also applies a 3% rate on the revenues originated from online transaction services and set online advertising in France by digital companies, wherever they may be established. The targeted enterprises are those who make annual supplies of taxable services of $750 million worldwide and $25 million in France. The main aspects of the French DST and its key characteristics are almost identical to the Italian one, so they will not be discussed further.

[27] Journal Officiel de la République Française (2019), Texte 1 sur 20, "LAW n ° 2019-759 of July 24, 2019 creating a tax on digital services and modifying the trajectory of the decrease in corporate tax", July, Paris.

The aim of this brief analysis of the French Web Tax is that of understanding and perceiving how much of a global issue this is. Taxation is one of the key aspects of today's economies as taxes make it possible for governments to operate and for countries to continue growing economically. Other countries apart from Italy and France, have adopted national web taxes: Spain and Britain are two other economies who have followed this path.

Evidently there is a reason why countries feel the need to applicate such taxes, and it is no surprise that the French national tax became a source of contention with the United States and more specifically with Washington D.C. The American Government considers these taxes – which, again, have been adopted by many – to unfairly target the major United States companies or "big techs" – which are Facebook, Amazon, Google and Apple. While the Organization for Economic Co-operation and Development is trying to negotiate the first major rewriting of tax rules, some countries couldn't wait much longer and adopted their own methods.

The situation and the need for many countries to find a solution to tax digital companies has increased drastically with the Covid-19 Pandemic outbreak. The urgency comes from the increased revenues that "big techs" are gaining due to the situation that the pandemic has created – as, for example, even just the adjustment of working from home and establishing billions of transactions through digital channels. The global crisis that is still happening as of today due to the pandemic is leading to a boost in the revenues of digital companies. The priority is that countries work together to find common ground so to be able to restart the global economy. The French Web Tax seems to be designed to prepare the country for economic recovery without having to demand and impose higher taxation to those living with economic difficulties. France's Finance Minister Bruno Le Maire has made a very clear statement on the French position regarding the DST: "Never has a digital tax been more legitimate and more necessary", manifesting how big of a game changer a global taxation method would be. Regardless of the situation and the intentions for which the Digital Service Tax was enforced, the former President Trump's Administration investigated France's introduction of the DST and threatened to impose insurmountably high tariffs on a series of French luxury goods as champagne and caviar, just to name some.

From any perspective we want to shed a light on, the issue is still the same and a common solution is yet to be found. There has been a major outbreak when Covid-

19 exploded, and many changes have happened in a very short period; from lockdowns all around the world to revenues shifting to the online markets to the declining of whole industries. These are the main topics that will be discussed further in the next chapter, with an in-depth analysis on the luxury industry.

CHAPTER 3 – COVID-19 AND THE ONLINE REVENUE SHIFT IN THE LUXURY INDUSTRY

3.1 The Covid-19 pandemic: online revenue shifting

The Covid-19 global pandemic has been one of the major defining events of 2020 and looks like the implications that came with it will last decades. The pandemic crisis has set a high bar for history as this is an unprecedented time we are living in. Covid-19 not only affected people's health – with all its severity and implications – but also it significantly impacted businesses and the economy on a global scale. The interconnected world economy suffered massively from generalized lockdowns to business closures and social distancing. Since the outbreak began in the last days of 2019 and subsequently spread around the globe during 2020, economies have suffered, and governments have had great difficulties managing the situation.

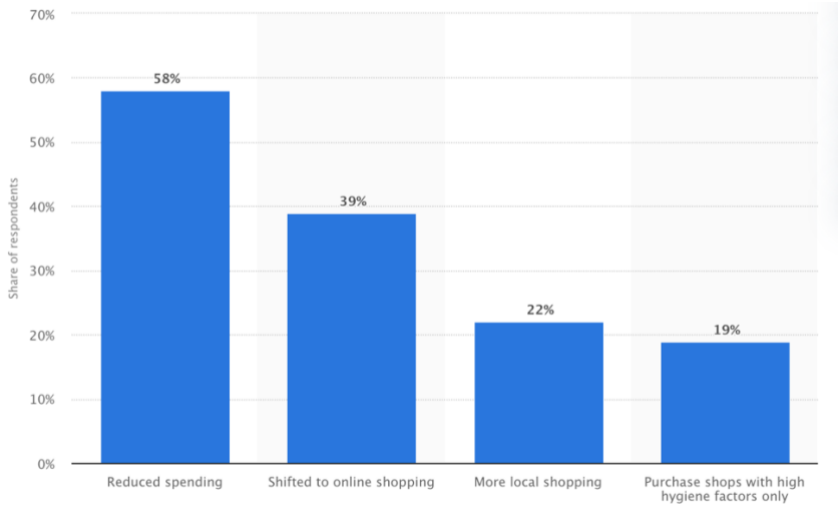
During this period many things have changed but, most of any other economic aspect, a point needs to be made on the online revenue shifting deriving mostly from lockdowns all over the world. The pandemic is thought to have accelerated the shift to e-commerce by 5 years. Year 2020 has been a very profitable year for the big tech companies such Amazon, Alibaba, and Shopify, which have seen revenues rising 34%, 27% and 74% respectively. However, something that does not seem to draw as much attention as the growth rate is that, along with the revenue boost, costs of the online marketplaces also increased inexorably. However, players who have led the way in the digital marketplaces and e-commerce platforms are expected to emerge in a stronger position than before (Alfonso V. et al 2021).

Also, those countries with lower levels of e-commerce are the ones who have had the highest growth rate in the same field, catching-up on those that were already developed in this sense. Furthermore, during the Coronavirus outbreak, e-commerce and big MNEs have had to deal with many issues: starting from transportation, shipping and logistics disruption, to customers' protection and well-being to product availability. To be able to handle these challenges companies have had to expand services and adapt their business models to the new inconvenient situation. Also, those enterprises who were not yet fully e-commerce implemented had to move fast to remain competitive in the digitally transformed market (Alfonso V. et al 2021).

Covid-19 has affected e-commerce around the world by changing the nature of business. Because of the many issues that the pandemic has brought, enterprises had to understand that these changes were going to drastically affect their entire business management systems going from supply chain to the adoption of e-commerce platforms. Because of the social distancing and the generalized lockdowns, consumers have been shopping online for many new categories of products that were not forecasted to see such rapid rise in the online shopping. Customers have been forced by the virus to get used to using the Internet and shopping online, making this use a daily routine and bringing to the table product categories that were not expected to have as much attention in the online commerce industry as they had. Although the pandemic has had a negative impact in many sectors such as tourism and catering, there is an overall increase in the use of e-commerce platforms and marketplaces (Andrienko 2020).

Italy has seen a big shift towards the online shopping due to the crisis in which we are still living as of today. Even though there is a high percentage of reduced spending of almost 60% – most of which derives from the economic problems present in Italy as well as in all the other countries around world facing this historical period of crisis – the adoption of online retailing is fairly high compared to other countries that where already more likely to buy online (see Figure n.9).

Figure n.9: HOW HAS ITALIAN'S SHOPPING BEHAVIOR CHANGED DUE TO COVID-19



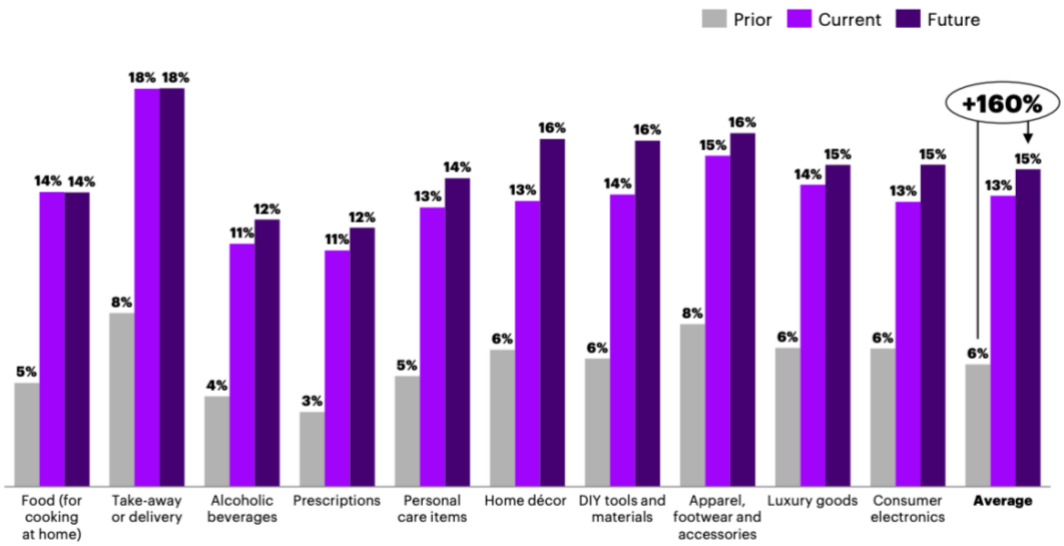
Source: Statista 2021, Italy – October 2020.

The Coronavirus pandemic has changed the world as we know it. People are living differently, consumers are buying differently and in many cases are thinking

differently. The changes have been astonishingly fast, and retailers and enterprises are reshaping their companies in real time to a permanent effect. Habits that have formed during the past year will endure beyond the crisis and trades on where and how people shop, on how people live and work is what MNEs have to adapt their businesses to. Given that online shopping has become a must in today's world, purchasing responses to Covid-19 haven't been universally felt by generations. Consumers have responded to the crisis differently depending on age and gender. Gen-Z and Millennials seem to be the ones whose purchasing behaviors have been altered the most and have changed much more dramatically compared to Gen-X and Boomers. Also, data shows that men's shopping behavior has been affected more than women's, having them avoid in-store experiences or just limiting in-store interactions through methods such as BOPIS – that is, buy online, pick-up in store (Zwanka, Buff 2021). Consumers seem to be uncomfortable about visiting public places and are therefore are more prone to turn to digital and omni-channel services.

New users are turning to e-commerce and seems like the shift we are experiencing today is likely to continue in the future. Accenture reports state that the expected rate of increase in e-commerce purchase from new or even low-frequency users is about 160% (see Figure n.10)

Figure n.10: PROPORTION OF PURCHASES MADE ONLINE BY INFREQUENT E-COMMERCE CONUMERS



Source: Accenture COVID-19 Consumer Research, conducted 17-27 April 2020. Bossi M. and J. Standish (2020), "How will COVID-19 change the retail consumer? Data-driven insights into consumer behavior", Accenture Now Next Report, *May.*

In essence, the Coronavirus pandemic and the consequent lockdowns have posed serious challenges both to enterprises and to countries' economies. The

responses have been fast and disruptive with new business models coming to life and e-commerce platforms turning into the major touchpoint for companies to reach their customers.

3.2 Digital platforms: the progress of luxury e-commerce

The online luxury retail industry has been up and growing for about 20 years now. The dramatic change it has experienced in this period has reshaped the industry, once run by family heritage brands, turning it into multi-billion dollar groups and conglomerates such as LVMH, Kering and Richemont. The same notion of retail is changing for the luxury industry as these luxury brands are embedding digital into their businesses.

The Internet represents one – if not the one – of the major growth drivers in today's economy as it has become essential in all industries. Most luxury brands have started in the past two decades to be present on the Internet platform. However, luxury companies' online presence history is quite shorter than other industries since big groups have been suspicious about the meaning that this action could carry. The very true meaning of luxury is based on exclusivity, prestige and selectivity, values which would have been lost the moment luxury brands adopted e-commerce platforms. Through these, luxury products would have been made available to a wider range of customers with the Internet being collective, ordinary, and representative of the mass market, the antithetical of luxury's values. The late endorsement of digital platforms derives from the will to keep the rarity and uniqueness of the luxury industry. Furthermore, luxury companies were prompted that the high-quality of the brands and the prestige behind their names could not convey with the digital environment. The perception of the exclusivity of these companies was thought to be put in jeopardy due to the internet and its accessibility (Abbafati 2017).

The embedding of the Internet with the concept of luxury did not seem to fit at first, but, even if resiliently, luxury brands commenced to adopt e-commerce websites as another touchpoint with their customers. The companies in question did not seem to be aware of the potential of the digital channel and therefore companies mistrusted the platform to be useful and contributive to their goal and in line with their values. Because the luxury industry is, by definition, perceived as exclusive and

prestigious, the change of scope that the digital has brought over time was at first seen as somehow controversial. However, luxury brands have decided to move towards the clients' needs and therefore implement and ingrain digital platforms into their business models over time.

The progress of luxury e-commerce starts from the adoption of digital platforms which were at first thought just as another stage to raise brand awareness and brand equity. Just after a first attempt digital platforms became also marketplaces where customers could actually buy the products they would otherwise find only in the prestigious boutiques of the maisons – in the fashion industry, for example. Also, today more than ever, luxury e-commerce platforms are one of the major touchpoints for companies to connect with their clients due to the Covid-19 pandemic, which has seen economies stop and entire countries in lockdowns. The platforms of pure players – that is, online retailers of multi-brand luxury products – are the ones who have seen the greatest growth in the luxury industry in the last years. Among the biggest pure play retailers in today's economy are YOOX NET-A-PORTER Group (YNAP) and Farfetch, which will be both discussed further in this paper.

With the implementation of the digital platforms the luxury industry has become more accessible in a way; not because the prices have been lowered or because brands have decided to sell their products without guaranteeing that customer experience that makes them so special, but because today every luxury product that goes from fashion and accessories to the automotive industry and beyond can be found online. Many luxury brand products are being sold by pure play retailers as Farfetch and YNAP, increasing their revenues and making others work to grow their brand equity. Others, like LVMH – that is, Louis Vuitton Moët Hennessy Group – launched their own multi-brand e-commerce portals. In LVMH's case, which was the first to adopt such strategy, the 24 Sèvres portal did not only feature LVMH's own portfolio of brands but also fashion, accessories, and beauty products from brands outside the group. The main difference between pure players like YNAP and Farfetch from LVMS's 24 Sèvres portal is that the first ones invest heavily on editorial contents and fast delivery while 24 Sèvres's focus is on visually led digital storefront window. The French group is trying to replicate online the experience that customers would have had at their physical luxury departments stores. Ian Rogers, Chief Digital Officer of LVMH, described 24 Sèvres as the "shopping experience of

the future" speaking to the Financial Times, to emphasize how important it is for luxury brands to investigate the digital world and invest in it.

Recent research shows that customers are more inclined to shop in a multi-brand environment and online seems to be the most effective way to do that. Because of this reason another giant of the luxury goods industry, Richemont Group, announced its intention to acquire YOOX NET-A-PORTER Group. The successful closing of the acquisition found its way in May 2018 bringing Richemont Group the full control over YNAP with the intention of expanding the online market for luxury goods (Beauloie 2018).

Digital platforms have skyrocketed their functions; new customer relationship management and recommendation systems have been implemented in luxury e-commerce platforms to get the customers feel at the center of the companies' thoughts. Also, new methods have been found to be easily manageable and profitable as the buy online and ship at home – something that had a great boost during the Coronavirus pandemic. All these implementations have helped the online market grow and minimize the distance between the online and offline market.

The Covid-19 crisis has also accelerated the transition to the online marketplaces for luxury companies. Online retail sales of luxury products increased during the first half of 2020, reaching a peak of +209% globally in April. The high growth rates prompted those brands who were not yet 100% involved with the online retail to do so and to accelerate digitalization by providing digital e-commerce solutions. Even though the luxury industry and traditional luxury brands have long shied away from the digitalization of retailing, the pandemic has encouraged the adoption of online shopping channels both from the customer side and from the companies'. Enterprises have made huge investments to catch up with the disruptive technologies and to adapt to the changing environment brought by the digital revolution. It is expected that post Covid-19 shoppers will no longer distinguish online from offline channels as the seamless experience that luxury brands are trying to achieve is developing at a faster rate than expected. Omnichannel shopping is becoming key for companies. Also, to enhance their interconnectivity luxury retailers are adopting a numerous series of experience-based services as "Click&Try", "Click&Return", tech-driven concierges and many others (Cf. Deloitte 2020).

Altogether, platforms and e-commerce have seen a major rise in the luxury industry beginning with Net-A-Porter and its introduction in the market in year 2000.

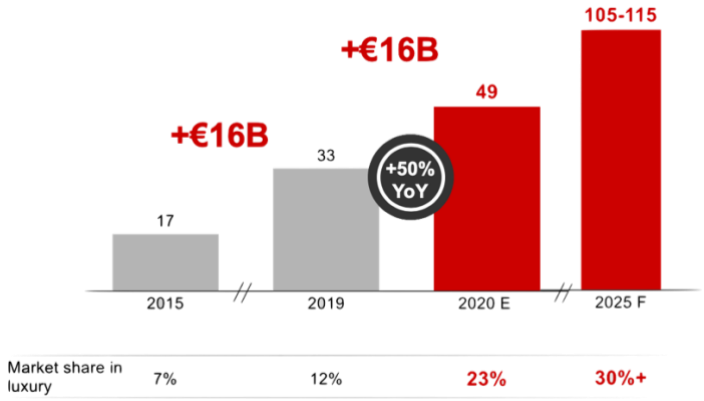
After that many followed and today, as the pandemic continues to be an existing issue, others are starting to believe that online retailing has a great potential and that it could be the future of the luxury industry, as it has been for many others already.

3.3 Altagamma-Bain's Worldwide Market Monitor

On November 18th, 2020, Claudia D'Arpizio and Federica Levato presented the Bain-Altagamma Worldwide Luxury Market Monitor as an update on the global luxury goods market. The document presents insights on the performances of the market in the first three quarters of 2020, the new emerging macro-trends and the current situation of luxury players, as well as Bain's point of view on how to succeed in the recovery after the pandemic in the coming years. The main aspects that are going to be further discussed are the ones concerning the digital shift that the luxury industry has experienced and how and why the industry is getting reshaped by the dynamics of the Covid-19 pandemic.

As already introduced earlier in this chapter, the Coronavirus has fast-forwarded many dynamics that are molding the luxury industry. Firstly, the pandemic has frozen tourism and therefore the burden of the growth of the markets has shifted on local customers. Secondly, even though Gen-Z is the generation who has had the major change in shopping behavior, they are also the ones who are driving the rebound of the luxury market. Lastly, the skyrocketing of the online channels follows a pace that has never been seen before. It is estimated that online will reach one third of the market by 2025, leveraging an omnichannel environment (D'Arpizio and Levato 2020). So, from local customers to the generational shift, ending with the digital blast, the previsions for the luxury industry seem to be transforming the ecosystem of distribution. Also, the brands' role has suffered a massive shift that has changed the market's point of view: brands have gone from producers to broadcasters. The online market for luxury goods has been evolving and this evolution comprehends both countries and product categories that have expanded over the time in the online sales. Online is expected to become the number one channel, fueling omnichannel transformation and digitalization. The Altagamma-Bain Worldwide Market Monitor expected an increase of € 16 billion going into 2020 with a 50% YoY – that is Year-over-Year – and the personal luxury goods gaining a market share in luxury up 11% (see Figure n.11).

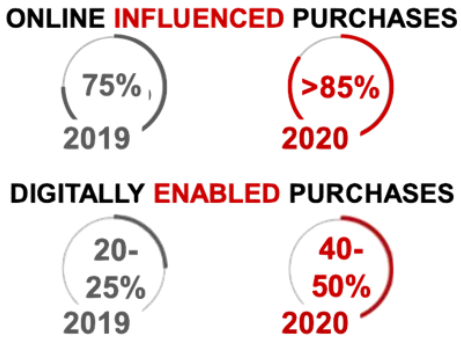
Figure n.11: EVOLUTION OF THE ONLINE PERSONAL LUXURY GOODS MARKET (€B | 2015-2025F)



Source: D'Arpizio C. and F. Levato (November 18th, 2020) Altagamma-Bain Worldwide Market Monitor 2020, Milan, pp. 18.

Because of the effects of the Covid-19 pandemic, Europe is reported to be the region with the biggest shift globally, with local consumption moving towards wealthy areas and online, for the most part. However, China has had the steepest growth in the digital market of around 1.5 times the average 2020 online market growth. Online influenced purchases and digitally enabled purchases have been booming in 2020 with an increase of 15% and 20-25% respectively, since 2019 data reports, landing on over 85% for the influenced purchases and to 40-50% for the enabled ones (see Figure n.12).

Figure n.12: PURCHASES THROUGH DIGITAL (%)



Source: D'Arpizio C. and F. Levato (November 18th, 2020) Altagamma-Bain Worldwide Market Monitor 2020, Milan, pp. 18.

The adoption of this new way of doing business online and the new scenario of the changing world defines the retailing industry of the future. Luxury brands have recognized the potential and the visibility that the Internet can give them. The e-commerce world is reshaping the way luxury brands do business and how they

interact with their own customers. More and more people have been influenced by the online industry to shop through e-commerce platforms, which have become the enablers of tomorrow's purchases. The integration of the digital with the physical denotes the step forward that luxury brands have taken to improve in the industry and to become more attainable for customers all over the globe.

3.4 The "Farfetch" case and its revolutionary approach

The luxury fashion market is characterized by high quality premium price products whose aesthetics differ from "normal" brands. In this scenario, but in different setting, Farfetch Limited came to life. Farfetch was founded in June 2007 by the Portuguese entrepreneur José Neves. The company describes itself as the leading online platform for the global luxury industry in fashion. It is a digital platform that sells luxury products, offering brands a high-reach marketplace to improve their online presence. The disruptive idea that the founder had was that of reinventing how customers perceive and interact with the fashion luxury industry.

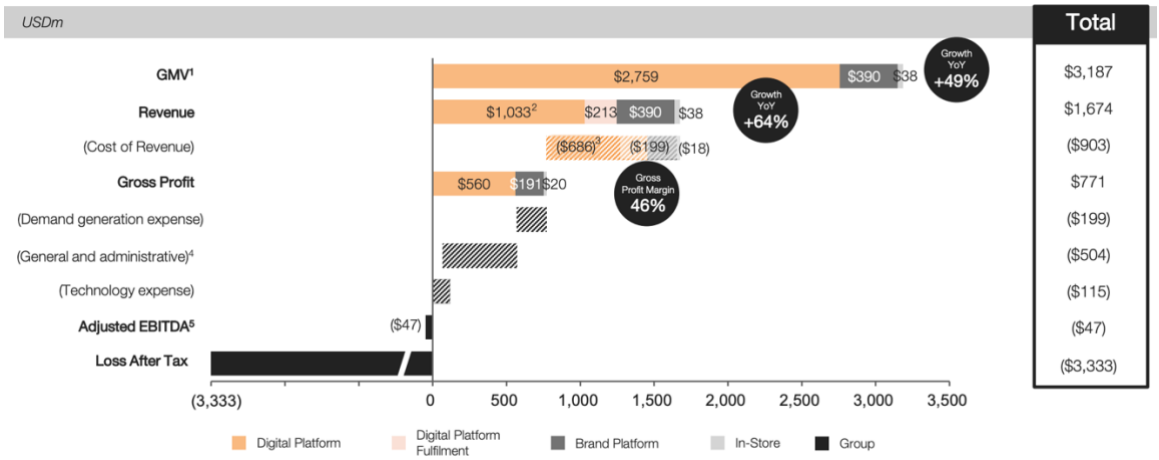
Farfetch is presented by many as one of the most successful companies in fashion luxury's e-commerce industry. The digital platform has more than 3,000 brands and high-end designers, accounting for the biggest catalog of luxury products available worldwide (Balasyan and Casais 2018).

The high-end luxury fashion industry in which Farfetch operates is a complex and intricate field. Trends are fast changing, and customer's predilections are personal. Users of luxury e-commerce platforms as Farfetch have high expectations and demand enlightened experiences in all aspects. Ultimately, the concept of luxury is in essence built on customers perceptions.

Luxury brands compete on the ability to evoke exclusivity. However, as Farfetch Limited does not represent a luxury brand but many of them, the exclusivity of the platform derives form the ability of the company to retain customers but making their encounter unique. In fact, customer experience is one of the key aspects that identify luxury brands as they are. Enterprises not only sell products but experiences and even if luxury is defined in many ways, all the possible definitions include excellent quality, uniqueness, premium prices, scarcity, but mostly brand experience and heritage of the brand (Magalhães 2019). The luxury e-commerce market therefore cannot be considered mass market and be sold on eBay or Amazon;

this is the reason why Farfetch is specialized in high-end luxury market and proposes itself as the stage for luxury brands to be found online. Farfetch allows its customers worldwide to find boutiques that they may not have found accessible. As an example of the rapid digital evolution and extension, Farfetch's 2020 results of operations show a Digital Platform's revenue YoY Growth of +64% (see Figure n. 13).

Figure n. 13: FY' 2020 RESULTS OF OPERATIONS ($M)



Legend:
1 GMV is inclusive of product value, shipping and duties and net of returns, value added taxes and cancellations.
2 Refers to Digital Platform Services Revenue.
3 Refers to Digital Platform Services cost of revenue plus Digital Platform Fulfilment cost of revenue.
4 Excludes other items (outside the normal scope of our ordinary activities or non-cash items).
5 Non-IFRS financial measure, please refer to reconciliation to IFRS measure in the Appendix.
Source: Farfetch (2020B), "Fourth Quarter and Full Year 2020 Results", February, pp.8.

The digital transformation happening all across the luxury industry – which was accelerated by lockdowns – is the reflection of the deal that has come to life in November 2020 when more than $ 1 billion investment was made on Farfetch's platform by Alibaba – another online giant – and Richemont – one of the biggest luxury goods maker. China has experienced this extremely fast shift towards the digital and is in fact expected to become the largest luxury market by 2025 (Farfetch 2020A).

As already mentioned earlier, Farfetch's main goal was that – and still is – to disrupt the fashion luxury online market. To do so Farfetch teamed up with Gucci to launch "The Store of the Future". The concept that lies behind it is that of employing Farfetch's "retail and online fashion technologies to enable retail staff to send recommendations to in-store shoppers" (Deloitte 2020). By doing so, the experience the users get would be seamless, having the borders of online and offline shopping disappear. Also, by using this technology, staff members of the physical stores could review wish lists and customers' profiles as well as purchase histories to better serve

the customer's needs. The revolutionary approach that Farfetch is trying to carry out gives brands a great sway. Furthermore, Farfetch has signed in 2018 an exclusive innovation partnership deal with Chanel to create a customized augmented retail experience in Chanel's boutiques. The luxury company together with Farfetch has been working to develop a range of digital initiatives to better nurture the customer experience both online and offline (Farfetch 2018A). Gucci's and Chanel's partnerships are just two examples of how Farfetch is trying to leverage up its relationships with many of the well-known brands of the fashion luxury industry to innovatively reinvent and push forward the online industry for luxury goods (Cf. Balasyan and Casais 2018).

In brief, the major advantage of online presence to luxury brands is the opportunity to go global and e-commerce is a great instrument to develop brand image. In this scenario, Farfetch seems to be the platform that will enable the entire fashion luxury industry to thrive as the digital transformation advances.

3.5 YOOX NET-A-PORTER Group

The YOOX NET-A-PORTER Group (YNAP) came to life in 2015 when Yoox – an online outlet store founded by Italian entrepreneur Federico Marchetti in Milan in 2000 – acquired Net-A-Porter (NAP) – a half magazine and half virtual shop launched by Natalie Massenet by the same year in London. In 2010 Richemont Group acquired a major stake in NAP which was at the time the most trusted digital seller of luxury goods globally, selling about $ 4.7 billion worth of personal luxury goods. Couple years later, in 2015, Yoox purchased a major amount of NAP shares from Richemont Group establishing the YOOX NET-A-PORTER Group. However, as the digital market industry for luxury goods was growing rapidly, some of the biggest luxury groups and conglomerates decided to take a leap and start investing in e-commerce websites and in the digital side of luxury that had been so long scorned. Thus, Richemont Group – the Swiss-based luxury goods holding company – attained YNAP by purchasing 95% of its available shares. By doing so, Richemont Group, combined with YOOX NET-A-PORTER Group turned into one of the major e-commerce players globally.

Now, over 20 years later since Yoox and NAP first launched, the luxury e-commerce market has thrived. Luxury brands, conglomerates and groups now

embrace e-commerce not just as a revenue source but also to attract new clients. Now, what needs to be considered is that for YNAP to succeed and remain one of the biggest pure players in the luxury fashion market the Group must put its focus on improving customer experience and adding value. The YOOX NET-A-PORTER spokesperson emphasized that their customers have been shopping on the go from their phones for some time already with "more than 50 per cent of all YNAP purchases made through mobile or app". The ways in which YNAP takes advantage of new technologies to enhance the unique experience for costumers is key for the evolution of online shopping. High-touch retail experiences are what make a difference in an endless stream of products sold online.

Richemont Group has followed the lead of Farfetch idea to partner with other e-commerce giants and retailers to grow its image and prestige. In September 2019 Richemont Group together with Alibaba – the largest online and retail commerce company by gross merchandise volume globally – have announced the opening of a Net-A-Porter flagship store on Alibaba's Tmall Luxury Pavillion – that is the biggest and most exclusive online platform where the world's leading luxury and fashion brands sell their products in China. This joint venture built up on great potential with Alibaba powering it with its technology infrastructure, payment services and marketing strategies in Asia. The flagship store makes customers benefit from an innovative and well-crafted online luxury customer experience that has its roots in personalized content, product recommendations, customized brand pages and VIP awards. Federico Marchetti, Chairman and CEO of YOOX NET-A-PORTER Group said that "This game-changing partnership between Richemont, Alibaba and YOOX NET-A-PORTER unites three world leaders who together are redefining the way Chinese customers shop for luxury. Net-A-Porter's flagship store on Tmall Luxury Pavilion will become THE online destination where luxury brands want to be in China, leveraging Net-A-Porter's […] two decades of expertise and pioneering innovation. Chinese shoppers can explore a unique selection of the world's most desirable brands carefully curated just for them, enhanced by an unmatched personalized experience and exclusive products that cannot be found elsewhere". The partnership has set new standards for the future of online luxury retailing and has shed a light on the importance of the online customer experience (Richemont 2019).

Richemont Group has seen a great growth margin in 2020 through its digital channel and online distributor YOOX NET-A-PORTER Group with a +15% in sales compared to the previous year (see Figure n.14). However, as already stated earlier in this paper, with higher sales come higher costs and spending to upgrade and improve the online channels, especially during the Covid-19 pandemic. For this reason, the operating margin has suffered due to increased communications spending and continued investments in IT. Digital initiatives utilizing AI started being used in YNAP online stores to enhance client experiences, raising costs and investments in the digital platforms. Also, the competitive pricing environment has impacted the operating margin (Richemont 2020, pp.19).

Figure n.14: FY PERFORMANCE – ONLINE DISTRIBUTORS (€ Million)

12 months	€m	FY20	FY19*	Change
Sales		2 427	2 105	+15%
Operating results		-241	-99	-143%
Operating margin		-9.9%	-4.7%	-520bps

Source: Richemont (2020), Annual Report and Accounts 2020.

Year 2020 has also set big achievements for YNAP Group marking the 20th anniversary of both Yoox and Net-A-Porter and celebrating their unrivalled track record in luxury retail. Richemont's 2020 Annual Report states that "As the global leader, YOOX NET-A-PORTER's continued success will be driven by an enduring customer-centric approach, together with investment in pioneering innovation, global expansion, close brand partnerships and leveraging of its unique ecosystem which continues to define the ultimate luxury experience" to remark how important it is for the industry to constantly develop as customers needs' continue to change rapidly as does the online environment too.

CONCLUSIONS

New problems arise from the dysfunctions of the old traditional system in which the sovereignty of each state is above every other interest. However, today, the European Union is looking for a common solution to carry through a fairer and more transparent taxation system. Also, the advent of the digital economy has brought about major fiscal challenges. In fact, in the globalized panorama of the world economy, fiscal policies have found themselves facing phenomena of high mobility of taxpayers and capital, a high number of cross-border transactions and the internationalization of financial structures. Admitting that digital companies boost our economies and restructure our network societies is key to identify which traditional legal solutions cannot keep up the pace of these new challenges that the Internet has brought and therefore is key to be able to identify which changes must be carried through to solve international problems. A digital tax reform would affect the cross-border marketplace but would also shape a new era of fairness and transparency. A common European e-tax law framework would establish elaborated binding rules applicable and executive to all European member states. Italy taxing the digital economy and unilaterally implementing the European commission's digital service tax proposal – even though it is still in need of practical guidance – is the closest example of how big of a step this is in terms of internationally towing other countries to follow. However, today a major issue remains as an international agreement on taxation is yet to be found. The hope is that of having all countries, European and non, come together to enable today's digitally driven economy to find balance and integrity and a common solution to all.

It is also clear by now that the Covid-19 pandemic crisis will bring a long-term boost for the online economy and for e-commerce businesses. Furthermore, many believe that e-commerce habits tend to become stickier once people go online and get used to the convenience behind digital shopping (Andrienko 2020). Another key reason to implement and invest in a unified front for the taxation of the digital economy. Also, the post-covid scenario seems to have a positive trend. In the Bain & Company Luxury Study 2021 Spring Update released on May 17th, 2021, the recovery trends that will shape the future of the market are made clear. More technology, more sustainability and a renewed human touch will be the key elements of the re-rising of the luxury industry, with China leading the way. The market has been rising throughout the first trimester of 2021 and two scenarios have been

presented by Bain & Co. as possible recovery projected frameworks. The first one presents the more optimistic point of view of the market but also the less probable, with about 30% of likelihood of it to happen. It expects to win back in 2021 the market levels of 2019[28] with the market reaching an outcome of $ 280-295 billion, therefore entailing a Compound Annual Growth Rate (CAGR) increase between 0 and 5% (2019-2021F). The second scenario expects the luxury market growth to be stifled during the year despite the strong momentum of the first quarter of 2021. In this case, the market would reach $250-265 billion this year with the CAGR going down between 5 and 10% compared to 2019 numbers (Bain 2021).

Also, the recent shift in the way of thinking of luxury brands has been much more exasperated by the recent Coronavirus pandemic which has furthered the need for brands to have an online space as boutiques and physical stores were forced to shut their doors. Down the road, experiences worth having and technology driven platforms will be the key success factors for luxury. Merging the online and offline will allow enterprises to meet customers' expectations of high-quality personal experiences, both in-store and online.

The analysis made on Farfetch and Yoox were thought as an investigation on the disruptive contribution that lies in the initiation of a new platform structure and the persistent endeavor to meet the constant changes in consumer behavior. Both pure players have conformed such a sharp reconfiguration of the luxury industry by leveraging new partnerships with brands and other technology driven companies as well as by edging the rising trends in the market. Customer experience and the online luxury retailing go hand in hand and are a must for the future of the industry. A precious contribution to the industry has been given by both YOOX NET-A-PORTER and Farfetch Limited due to them shaking the foundations of luxury and its meaning. They have brought to life concepts that go beyond omnichannel – as it has been conceived until the present day – by envisioning and realizing some true disruptive and innovative ideas. Yoox's flagship store on Tmall Luxury Pavilion and the partnership between Farfetch and Gucci for The Store of the Future are two examples of how the companies have embraced digital channels without squandering the fundamental features of the true idea of luxury, therefore maintaining that exclusivity and selectivity proper of the industry. The roots of the luxury industry also lie on customization, uniqueness, and high-quality products, but, even though

[28] 2019 is viewed by the industry as the last comparable year (Bain 2021).

the digitalization of this industry is becoming clearer as years go by, the need of keeping these foundations in mind is key for brands to succeed also in this digital shift maneuver.

Overall, as days go by with the digital era evolving at an ever-fasting pace, the necessity and urgency of a European taxation system for the digital economy is higher than ever. The framework of international legislation – that has been grounded on the concept of physical presence – needs a change in direction. By the beginning of 2021 Commission President Ursula von der Leyen promised to advance a digital tax – if the OECD failed to find a common view on the manner by the end of 2020 – to solve one of the main tax-related issues of the moment. However, due to many reasons that include the Coronavirus crisis, the OECD has stated that the international community has granted the continuing of the work to find a long-term solution by mid-2021. International tax rules should now pursue a single-based approach implementing a sustainable, modern, and globally balanced taxation system. Despite the progress that supranational bodies have made, many European member states are planning to launch their own national digital tax. By doing so, concerns have been raised about the fragmentation of the Single market, therefore upraising other issues and consternation about the consequences that could arise from it (Belka 2020).

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