Conseil Provincial du Secteur des Communications (CPSC)

Canadian Union of Public Employees (CUPE)

Brief presented to the House of Commons Standing Committee on Finance

Pre-Budget Consultations in Advance of the 2021–22 Budget

August 7, 2020

Recommendations

1) Amend Canadian legislation so that foreign companies doing business in Canada over the Internet are required to collect GST/HST on taxable goods and services, both tangible and intangible, that are sold in Canada.

2) Clarify the deductibility provisions of the *Income Tax Act* (sections 19.1 and 19.01), or change the way they are interpreted by the Canada Revenue Agency (CRA), so that Canadian companies' spending on advertising in foreign media, including online media, is not tax deductible.

3) Expand the Canadian Journalism Labour Tax Credit to include broadcasting undertakings, as defined in the *Broadcasting Act*, that hire eligible newsroom employees producing original news content.

Introduction

E-commerce already accounted for a growing part of the Canadian economy before the COVID-19 pandemic, but now it is more popular than ever. During lockdown, web giants saw a surge in sign-ups for their online content distribution services, thus accelerating the disintegration of Canada's already shaky communications and culture companies.

It must be pointed out that the Canadian government gives a huge competitive advantage to GAFAM (Google, Apple, Facebook, Amazon, Microsoft and other companies like Netflix, Disney and Spotify). Under Canada's outdated legislation, not all of these companies are paying tax in Canada, and some of them are not required to collect the goods and services tax/harmonized sales tax (GST/HST) on goods, services, advertising and subscriptions sold online on Canadian soil.

Before the country plunged into one of the worst public health crises of the century, CUPE-Quebec's Conseil Provincial du Secteur des Communications (CPSC) had good reason to hope that the 2020–2021 budget would contain an announcement rectifying this situation, which is hurting Canada's traditional media and online content distribution services. First, during the 2019 election campaign, the political parties in Ottawa were unanimous in calling for the restoration of tax equity between web giants and Canadian companies. Second, the government announced its intention of eliminating this injustice in the first few months of its second term. Unfortunately, due to the emergency measures that had to be taken in response to the pandemic and the recession, the tabling of Budget 2020 has been postponed indefinitely.

The federal 2021–22 budget, or any economic statement that precedes it, should therefore make it a priority to announce legislation that will require foreign companies to collect GST/HST whenever they sell a subscription, product or service online to Canadians. The next budget should also add clarification to ban Canadian companies from deducting advertising purchased from traditional or online foreign media from their taxes.

Such measures would have the benefit of not only levelling the playing field in the communications sector, but also replenishing the government's coffers, which have been strained by the public health emergency and the exceptional measures taken to support the economy and Canadians.

This crisis has also highlighted the importance of having credible local news media to protect our collective safety and ask the questions that need asking on behalf of the public. However, the crisis has also crippled broadcasters' revenues. That is why it is recommended that the federal government's next budget make them eligible for the Canadian Journalism Labour Tax Credit (tax credit), which is currently reserved for print media.

Web giants must do their fair share

Every company that benefits from the Canadian economy should contribute to it by paying and collecting taxes (GST/HST), whether it is a supplier established in Canada or a service offered exclusively online from abroad. For the vast majority of Canadians, that goes without saying. A survey commissioned by the Professional Institute of the Public Service of Canada (PIPSC) found that nearly 80% of Canadians agree that companies like Netflix, Google, Amazon and Uber should be subject to the Canadian tax system.

Canada's asymmetrical tax laws have been harming domestic companies for years by giving web giants a competitive advantage. This situation is bad for our economy, and it has only been exacerbated by the lockdown instituted in the spring of 2020 and the physical distancing measures imposed by the pandemic, which have driven consumers around the world to increasingly turn to online commerce, especially for entertainment. For instance, Netflix more than doubled the number of new paid memberships (25.86 million) in the first six months of the year compared to the same period a year earlier (12.3 million).

Taxing foreign online suppliers may require an international consensus within the OECD, but there is no reason to maintain the existing tax inequity. That is all the more true in light of the positive results seen internationally since 2003, as well as in Quebec and Saskatchewan, which have been requiring foreign online suppliers to collect sales tax since January 1, 2019. The Quebec government had expected to raise $28 million in the first year, but as of August 31, 2019, it had already raised $38 million.

In addition, a report released last year by the Auditor General (AG) of Canada estimated that, in 2017 alone, the federal government lost $169 million because GST/HST was not being charged on cross-border e-commerce. Given the current boom in e-commerce, it can be deduced that this amount represents the minimum annual loss to Canada's coffers.

The AG's report also stresses how important it is "that Canada's tax base be preserved to ensure that vital public services are funded."[1] It quotes the Department of Finance, which identified other consequences of not taxing digital products and services imported from foreign vendors:

> "● **Unfair competition.** Unlike Canadian vendors, foreign vendors were not subject to the GST/HST. For example, a video streaming vendor from another country could offer a service that is similar to a Canadian vendor's without being required to collect and remit the GST/HST from consumers. The result of this taxation inequity could be unfair competition for some vendors located in Canada.
>
> ● **Impediment to foreign direct investment in Canada.** Carrying on business in Canada or having a permanent establishment in Canada requires companies to collect the GST/HST on digital products and services sold. This requirement could result in fewer international companies wanting to invest in Canada, because they are not required to collect and pay the GST/HST if they operate from abroad. Similarly, Canadian businesses could see an incentive to move their operations outside Canada to avoid the requirement to collect and remit the GST/HST on the digital products and services they sell in Canada. This could lead to fewer jobs in Canada if companies choose to operate outside our borders."[2]

---

[1] Section 3.20 of the report.

[2] Section 3.30 of the report.

The House of Commons Standing Committee on International Trade also recommended in 2018:

> "That the Government of Canada apply sales taxes on tangible and intangible products that are sold in Canada by domestic firms and by foreign sellers, including when such sales occur using an e-commerce platform."[3]

Deductibility of foreign advertising spending

Section 19 of the *Income Tax Act*, or the way it is interpreted by the Canada Revenue Agency (CRA), is also harming Canadian communication companies, in addition to depriving the government of revenues that could help save the media, uphold our democracy, and promote the country's economic recovery.

Under current tax laws, Canadian companies purchasing advertising in foreign online media qualify for tax deductions that were originally implemented to support Canadian newspapers, magazines and broadcasters, save jobs, and foster a diversity of voices in Canada.

The government needs to close this loophole, which was explored in detail in a study produced for Friends of Canadian Broadcasting, because it exacerbates the unfair competitive landscape created by the asymmetrical tax system, which puts Canadian media at a disadvantage. Canadian media outlets have to compete with tech giants like Google and Facebook that have cornered 78.3% of Canadian digital advertising revenue, which is valued at nearly $7.6 billion according to the latest figures (2018).

Faced with these statistics, it is only natural to wonder whether it makes sense for Canada's tax system to keep favouring the duopoly of Facebook and Google, which already dominates the online advertising market to an outrageous degree. The answer to that question is obviously no.

Canadian Journalism Labour Tax Credit

This tax credit on wages was created by the federal government in 2019 in response to a drastic decline in print media advertising revenues. The crisis has forced 335 media outlets (including 283 newspapers) to close or merge since 2008 and led to the near-collapse of Groupe Capitales Médias last year.

Broadcasters[4] with their own teams of journalists seem to have been excluded from this tax credit because they have not been as severely affected by declining revenues as print media companies have.

However, the lockdown due to the pandemic has wreaked havoc on their finances, even as all media were declared to be essential services. The TVA network lost 38.4% of its EBITDA in the second quarter, while Global News was forced to lay off staff. This precarious situation could persist after the government assistance offered in response to COVID-19 due to the economic crisis comes to an end.

---

[3] Recommendation 3 from the report.

[4] Radio and television stations.

Conclusion

The lockdown and physical distancing have made e-commerce more important than ever to the Canadian economy, while also dealing a heavy blow to the media by causing significant revenue losses.

In the next budget, the government must ensure that revenues generated from the Canadian market by GAFAM are taxable where possible, so that their benefits are not restricted to their shareholders, but are shared with Canadian society and with Canada's public services, companies and workers.

The same reasoning applies to the tax deductions granted to Canadian companies for advertising purchased from Canadian media. These tax deductions should not be permitted for digital advertising purchased from foreign companies, and this rule change should be announced in the 2021–22 budget or any economic statement that precedes it.

Lastly, CPSC asks that the upcoming budget expand the Canadian Journalism Labour Tax Credit to include broadcasters.

About CPSC

CPSC represents close to 7,200 workers primarily employed by telecommunications and media companies in Quebec. The CUPE-Quebec unions that belong to CPSC represent employees from such organizations as Cogeco, Telus, Vidéotron, Groupe TVA, Journal de Québec, Global, Bell Media, RNC Media and the NFB.

CUPE and its CPSC are part of the Coalition for Culture and Media. The coalition submitted briefs containing similar requests in 2018 and 2019. CPSC invites the Standing Committee on Finance to consult them.