

8th Conference on the Regulation of Infrastructures.

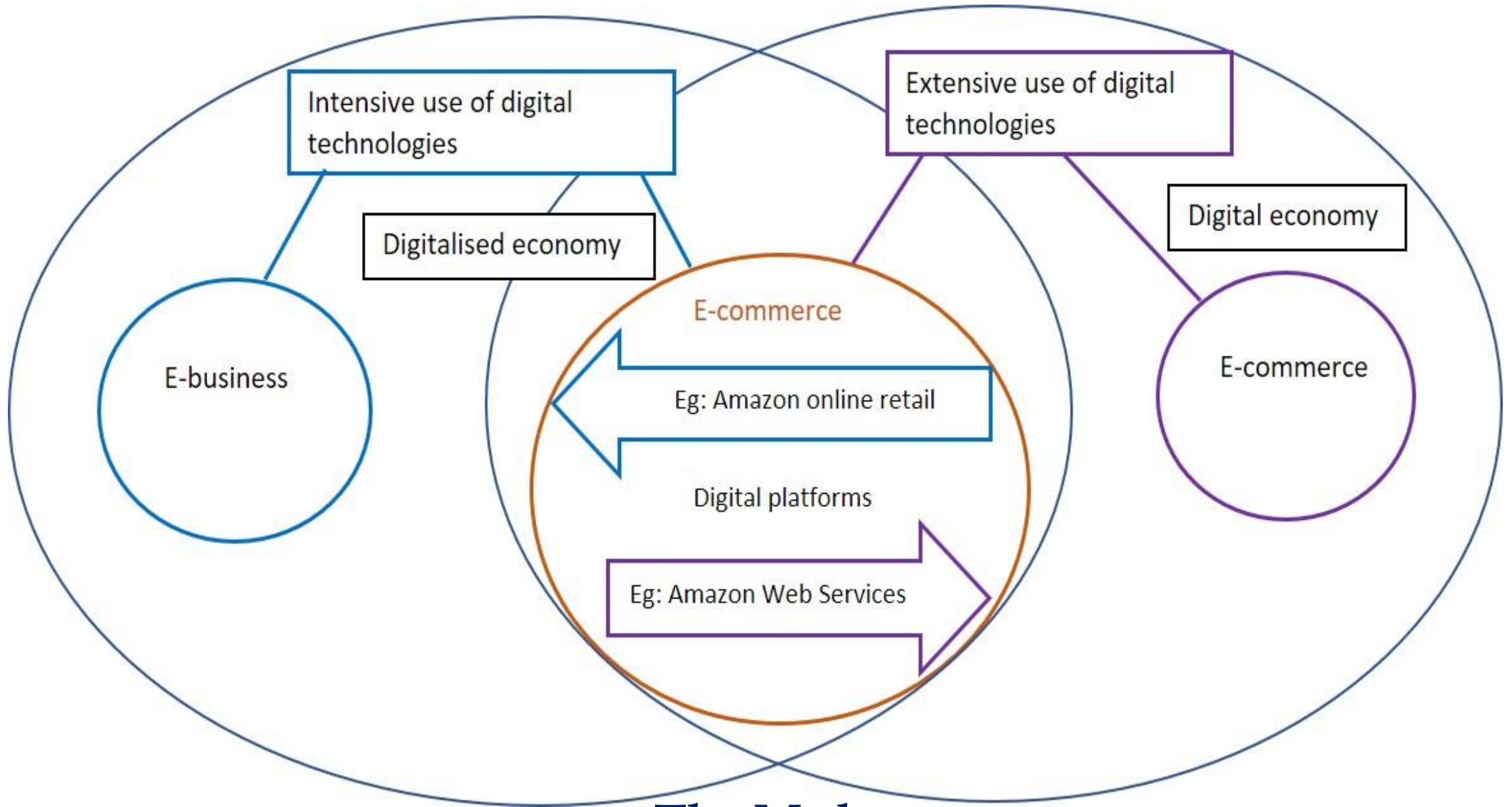
Digital Platforms – The New Network Industries? How to regulate them?

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Why now, a proposal to tax digital activities?

Outline

- There is a difference between the intensive and extensive applications of digital technology
- Challenges in establishing a relationship between extensive activities and jurisdictions
- Separate taxation of intensive digital activities not advisable as they are closely related to traditional substitutes and tax principles



The M chart

How can we identify extensive applications of digital technology?

Indicators	Examples
Not the means to an end but an end in itself	Bitcoin, Cloud services
Does not have an immediate traditional substitute	Netflix would be an intensive application of digital technology although the product is digitized and e-commerce is engaged in, as immediate traditional substitutes are noted
Service and product distinctions blurred	Cloud services, Innovation platforms (Gawer and Evans, 2016), VR gaming
Transformative in character (Thompson and Shearman, 1978)	Artificial general intelligence, Artificial super intelligence, Autonomous Artificial Intelligence and smart factories
“has this activity only arisen due to ICTs?” or “ the activity already existed before ICTs?” ((Heeks 2017) and (Narasimhan 1983))	

Tax principles for the relationship between tax jurisdictions and business activities

Tax principles


Source based taxation

Principle of ability to pay

Benefits principle

Taxation issues – generally identified for digitalisation

- Weak, invisible taxable economic presence (taxable person issue)
- Heavy reliance on intangibles with the opportunity for base eroding payments
- Value in data
- Characterization of income



tax
base
issue

Relationship between tax jurisdictions and extensive use of digital technologies

Resources and benefits

Electricity

Internet

Finance

Regulatory business environment

Customer and user participation

Data

The Digital Services Tax proposed in Italy

Italian Budget Law 2019 (Law no.145/2018)

- Provision of advertising on a digital interface targeted to users of the same interface
- Provision of a digital multilateral interface aimed at allowing users to interact (also in order to facilitate the direct exchange of good and services)
- Transmission of data collected from users and generated by the use of a digital interface

Would the DST be fair?

- Location of the user and the customer can be different, a withholding structure may not be effective. Apportionment and verification issues.
- How much of the value created on the platform can be attributed to the platform provider? (e.g. users are not obliged to view advertisements)
- Data as a type of raw material, issues in valuing data, use of data by traditional business models
- These activities are intensive applications of digital technology
- Example, daily users are consistently higher in Europe than in the US and Canada. However, the revenue per user ratio is consistently lower in Europe. This shows that the accounted income generated per jurisdiction is not always proportional to user population or network presence within an economy. (Facebook 10K report 2013, 2014 and 2015)

Conclusions

- There is a difference between the intensive and extensive applications of digital technology
- Challenges in establishing a relationship between extensive activities and jurisdictions
- Separate taxation of intensive digital activities not advisable as they are closely related to traditional substitutes and tax principles

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