

DIGITAL SERVICES TAXES



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WORLD BANK GROUP
Equitable Growth, Finance & Institutions

TAX CHALLENGES OF NEW DIGITAL BUSINESS MODELS.

1 No taxable presence (PE) in market country

 **NEW NEXUS RULES**

3 Heavy reliance on intangibles

 **BEPS RISKS**

2 Remote supply of goods and services

 **TAX COLLECTION ISSUES**

4 Scale without mass

 **TAX ENFORCEMENT CHALLENGES**



TAX IMPACT OF NEW VALUE CREATION PARADIGM

1 Value derives from data and user participation

NEW TAXING RIGHTS

3 Hard-to-identify business functions

TRANSFER PRICING ISSUES

2 Align taxation and value creation

NEW PROFIT ALLOCATION RULES

4 Hard-to-characterize income

TAX UNCERTAINTY



TAX POLICY OPTIONS

CONSUMPTION. INCOME. DIGITAL ACCESS.

1. CONSUMPTION (VAT/GST) → taxation of digital users as customers
• OECD VAT/GST Guidelines → destination principle

2. INCOME (CIT) → taxation of digital companies as suppliers

➤ Multilateral approach:

• Amount A of OECD Pillar One proposal → residual profit-based

➤ Unilateral approaches:

• Digital services taxes (DST)

• Expanded permanent establishment (PE) notion

• Withholding taxes

3. DIGITAL ACCESS (Toll Tax) → taxation of digital companies as customers

Digital data tax (DDT) → license-type

TAXATION OF DIGITAL SERVICES: TECHNICAL FOUNDING

ESTABLISHED OECD APPROACHES

- NO TAXATION RIGHTS IN THE ABSENCE OF A PERMANENT ESTABLISHMENT

OECD'S PILLAR 1 BLUEPRINT

- DEPARTURE FROM ESTABLISHED APPROACHES, BUT LIMITED AND LIKELY SMALL BENEFIT FOR DEVELOPING COUNTRIES

EXISTING UN APPROACHES

- INCLUDE AVENUES TO SOURCE TAXATION OF EARNINGS OF NON-RESIDENT SERVICE PROVIDERS WITH NO PHYSICAL PRESENCE

SOME COUNTRIES

- BROAD SOURCE TAXATION RIGHTS IN DOMESTIC LEGISLATION, BUT MAY BE OVERRIDDEN BY BILATERAL TAX TREATIES

CHARACTERISTICS OF UNILATERAL MEASURES

OBJECTIVE

Taxing some part of the income of large multinational enterprises conducting business through online digital platforms

SCOPE

- All businesses (above thresholds)
- Specific digital revenue streams
- Specific digital business models

TAX BASE

- Profit (net)
- Revenue (gross)
- Amount subject to the tax

TECHNICAL GROUNDING

- Existing tax rules
- New-stand alone tax

TAX RATES

- Much lower if applied on gross revenue



Digital Services Taxes (DST)

INCOME TAXATION.

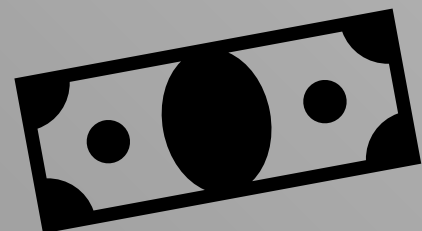
- New domestic source taxing rights → presumptive approach
- Taxes turnover from digitally delivered services
- Income in scope (varies depending on the national DST design):
 - ✓ Income from intermediary services (Uber, AirBnB, Amazon)
 - ✓ Advertising services (Google Ads)
 - ✓ Sale of data derived from users (Facebook)
 - ✓ Income from digital content services (Netflix)
 - ✓ Sale of goods and services (India only)



INCOME TAXATION: EXPANDED PERMANENT ESTABLISHMENT (DIGITAL PE)

- Modifies the traditional PE physical presence-based threshold
- Assigns taxing rights to country where sales take place
- Consistency between digital and physical transactions
- Determined by quantitative thresholds
- Taxable presence arises when:
 - Significant economic presence (revenue and other factors)
 - Purposeful and sustained interaction with the country
 - Via digital technology and other automated means

INCOME TAXATION: WITHHOLDING TAXES



•PART OF THE
COUNTRY'S
INCOME TAX
REGIME



•WITHHOLDING AT
SOURCE ON
PAYMENTS OF
DIGITAL SERVICES
AND PRODUCTS



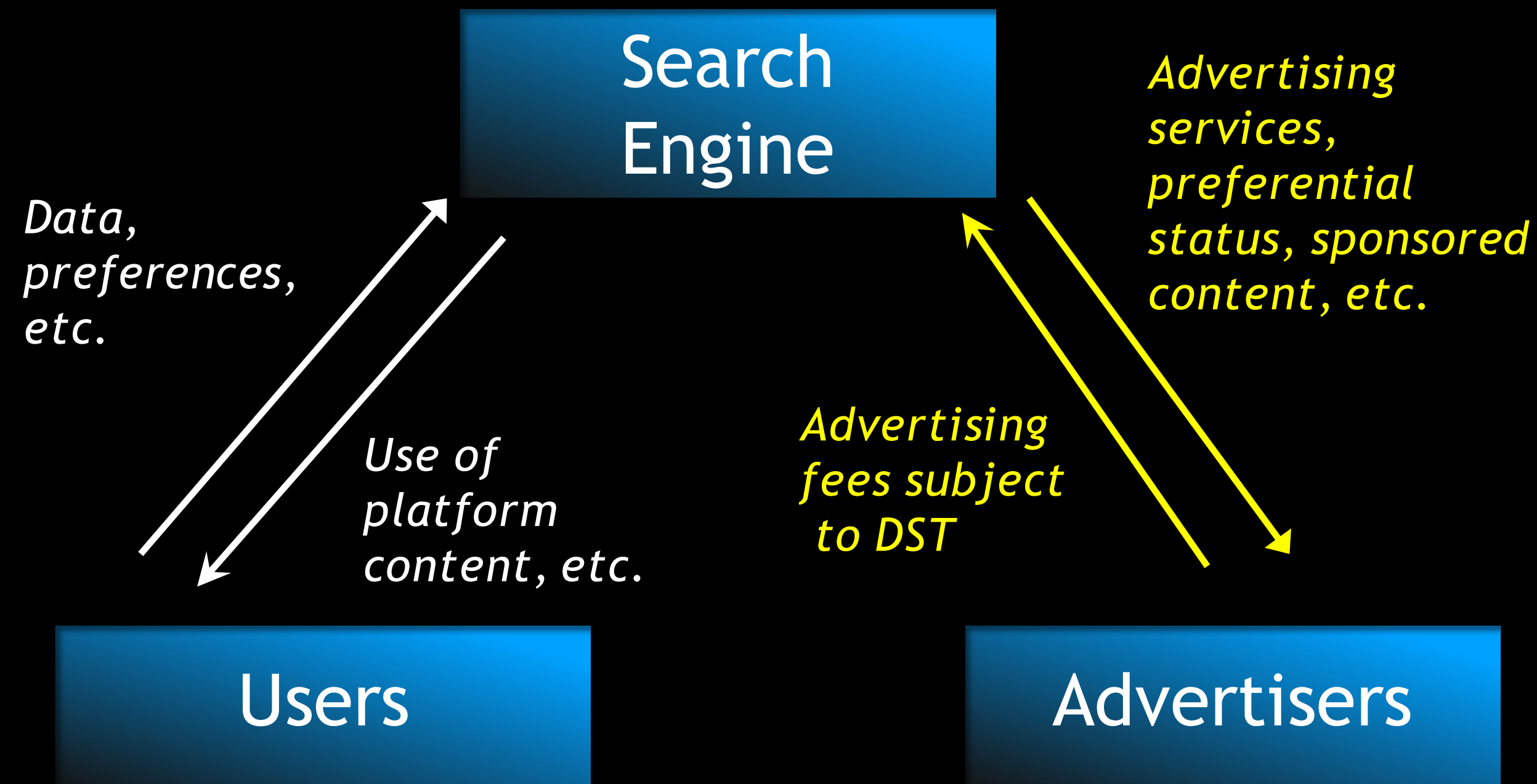
•APPLIED IN
TERRITORY WHERE
PAYMENTS ARE
MADE



•MAY REQUIRE
CHANGES TO TAX
TREATIES - ART. 12B
OF UN MODEL MAY
SOLVE THIS

EXAMPLE

ONLINE ADVERTISING SERVICES



→ Non-monetary dealings
→ Services

CURRENT GLOBAL INCOME TAX RULES

Income from advertising fees generally only taxable in country of Search Engine's tax residence

WITHHOLDING TAXES

UN model envisages withholding tax applied to advertising fees and allocates taxation rights to the jurisdiction in which the payer is resident. Takes no account of the location of the users that view the advertising

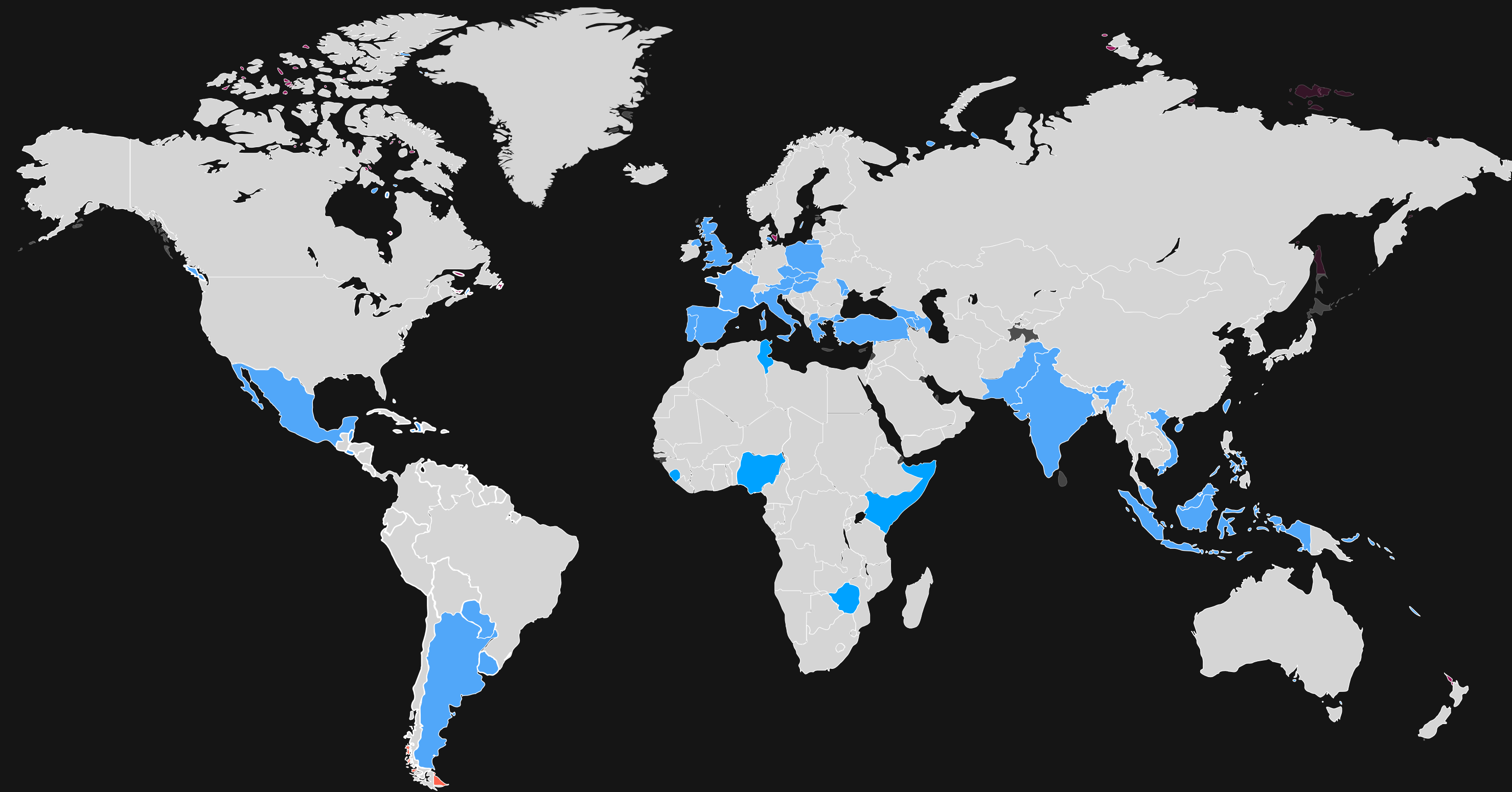
DST

Advertising fees also taxable at source if the advertiser and/or users are located in the taxing jurisdiction

KEY DEVELOPMENTS TO DATE

UNILATERAL MEASURES INTRODUCED OR UNDER CONSIDERATION

- ✔ DST was under consideration by the EU: some members have introduced and others still considering
- ✔ Draft new Article 12B to United Nations Model Double Taxation Convention
- ✔ Sept.2020: ATAF published a ‘suggested approach’ for drafting DST legislation
- ✔ March 2021: USTR investigation findings and proposed actions



26 Legislation Enacted

Argentina, Austria, Costa Rica, France, Greece, Hungary, India, Indonesia, Italy, Kenya, Malaysia, Mexico, Nigeria, Pakistan, Paraguay, Poland, Portugal, Sierra Leone, Spain, Taiwan, Tunisia, Turkey, United Kingdom, Uruguay, Vietnam, Zimbabwe

Revenue impact

India (2016): US\$100 Million FY 2017-18 (<0.01 % of GDP, 0.06 % of total tax revenue)

EU DST: EUR 5 billion (< 0.01 % of GDP) in 2020-2021

Bangladesh, India (2020), Indonesia, Philippines & Vietnam: around 0.02 % of GDP in 2019