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Brexit Deal Not Reached by EU Parliament Deadline

A deal was not able to be reached over the weekend in time to meet the [EU Parliament's deadline](#) to ensure implementation prior to the end of the transition period on 1 January 2021. Bernd Lange, chair of the Parliament's trade committee, [tweeted](#): "The consequence of no deal tonight is obvious: the EP does not know the consolidated text, is not in a position to scrutinize before the end of the transition period. So make preparations now for a no-deal period and agree emergency measures with U.K."

The fisheries industry remains a significant stumbling block in negotiations to agree a comprehensive post-Brexit free trade agreement between the EU and the UK. However, a UK official has indicated that talks are ongoing, and the EU Parliament is meeting to urgently consider options, such as applying any provisional agreement prior to formal approval, but opposition parties in the UK are calling for Boris Johnson to urgently extend the transition period.

The EU also recently confirmed that the terms of the Withdrawal Agreement will now be [fully operational](#) from 1 January 2021. Last week, the EU Council adopted a series of legislative proposals aimed at preparing the transport sector for all possible scenarios on 1 January 2021, including [road and air connectivity and air safety](#), [rail continuity for the Eurotunnel](#), as well as a [Brexit contingency plan on fisheries](#) to make it possible that EU and UK fishing vessels continue to have access to each other's waters as of 1 January 2021.

EU Publishes "EU Digital Age" Proposals for Digital Companies

The EU Commission unveiled two new proposals as part of its plan to create an EU for the Digital Age, the [Digital Services Act](#) and the [Digital Markets Act](#), which will introduce rules for digital services provided in the EU, such as through online marketplaces, platforms and social media. The proposals are intended to “better protect consumers and their fundamental rights online, and will lead to fairer and more open digital markets”.

The proposals also aim to support development of smaller and medium-sized enterprises by lowering compliance costs and prohibiting unfair conditions imposed by dominant online platforms. The Commission in its announcement of the package detail that the legislation is intended to operate as follows:

Digital Services Act

The Digital Services Act will introduce a series of new, harmonised EU-wide obligations for digital services, carefully graduated on the basis of those services' size and impact, such as:

- *Rules for the removal of illegal goods, services or content online;*
- *Safeguards for users whose content has been erroneously deleted by platforms;*
- *New obligations for very large platforms to take risk-based action to prevent abuse of their systems;*
- *Wide-ranging transparency measures, including on online advertising and on the algorithms used to recommend content to users;*
- *New powers to scrutinize how platforms work, including by facilitating access by researchers to key platform data;*
- *New rules on traceability of business users in online market places, to help track down sellers of illegal goods or services;*

- *An innovative cooperation process among public authorities to ensure effective enforcement across the single market.*

Platforms that reach over 10% of the EU's population will be subject to a new accountability framework, with an oversight body capable of imposing sanctions.

Digital Markets Act

The Digital Markets Act will:

- *Apply only to major providers of the core platform services most prone to unfair practices, such as search engines, social networks or online intermediation services, which meet the objective legislative criteria to be designated as gatekeepers;*
- *Define quantitative thresholds as a basis to identify presumed gatekeepers. The Commission will also have powers to designate companies as gatekeepers following a market investigation;*
- *Prohibit a number of practices which are clearly unfair, such as blocking users from un-installing any pre-installed software or apps;*
- *Require gatekeepers to proactively put in place certain measures, such as targeted measures allowing the software of third parties to properly function and interoperate with their own services;*
- *Impose sanctions for non-compliance, which could include fines of up to 10% of the gatekeeper's worldwide turnover, to ensure the effectiveness of the new rules. For recurrent infringers, these sanctions may also involve the obligation to take structural measures, potentially extending to divestiture of certain businesses, where no other equally effective alternative measure is available to ensure compliance;*
- *Allow the Commission to carry out targeted market investigations to assess whether new gatekeeper practices and services need to be added to these rules, in order to ensure that the new gatekeeper rules keep up with the fast pace of digital markets.*

The European Parliament and the Member States will discuss the Commission's proposals in the ordinary legislative procedure. If adopted, the final text will be directly applicable across the European Union.

EU Commission Publishes Proposal to Confer Implementing Powers on EU VAT Committee

Further to the [Roadmap](#) published in October, the EU Commission has now published a [proposal](#) for a Council Directive to confer implementing powers on the Commission in the area of value added tax (VAT). This action was contained in the Commission's 2020 Tax Package [Action Plan](#), and is being pursued on the basis that consistent implementation of the VAT Directive is imperative for the proper operation of EU VAT rules.

Accordingly, the Commission proposes to confer empowerment on the Committee to adopt implementing acts by turning the VAT Committee into a 'comitology committee'. At present, the VAT Committee is comprised of Member States and the Commission, and agrees non-binding guidance on the interpretation of EU VAT rules. The Commission in its Roadmap sets out that this planned directive would 'contribute to a more uniform application of the EU VAT legislation to the benefit of taxable persons having economic activities in several Member States'. The proposal also points out that comitology procedures are already in use for excise duties and administrative cooperation matters.

The proposal sets out that the powers "*would only be applied in connection with a limited set of rules implementing the provisions of the VAT Directive, for which a common interpretation is required. Any change to the VAT Directive shall require, as is the case today, unanimous agreement in Council.*" The proposal also identifies articles in the VAT Directive concerning which the Committee could exercise proposed powers for providing a common interpretation.

The proposal will now be considered by Council and Parliament in line with the

EU's special legislative procedure. Public input on the proposal can also be submitted via the [Have your Say](#) portal until 15 February 2021.

EU Legislative Priorities for 2021 & 2020 - 2024 Policy Objectives

Joint declarations have been signed by the European Parliament, the Council of the European Union and the European Commission identifying the [EU legislative priorities for 2021](#), and the [policy objectives for 2020 – 2024](#).

The legislative priorities are to:

1. Implement the European Green Deal;
2. Shape Europe's digital decade;
3. Deliver an economy that works for people;
4. Make Europe stronger in the world;
5. Promote a free and safe Europe;
6. Protect and strengthen our democracy and defend our common European values.

The policy priorities are:

1. Ensuring a full recovery from the COVID-19 pandemic;
2. Accelerating the transition to a fairer, healthier, greener and more digital society in the EU and on the global stage;
3. Maintaining the EU's global leadership in fighting climate change;
4. Shaping our own digital solutions and establishing Europe's digital sovereignty;
5. Making our economy more resilient and robust;
6. Defending our common values and strengthening our democratic model;
7. Strengthening the EU's role as a global actor.

On the tax front for 2021 legislative priorities, the declaration notes the EU's ongoing intention to *"pursuing fair digital taxation", "ensure more transparency on the taxation of multinational businesses; and ensure fair competition within the EU and on the global stage"* and also emphasises the EU's commitment to *"tackle money laundering and the financing of terrorism, tax fraud, evasion and avoidance as well as ensuring a sound and fair tax system"*.

In the policy objectives concerning making the EU economy more resilient and robust, the declaration states that the EU needs *"to strengthen our single currency, ensure greater financial stability and protect ourselves against financial crimes, tax fraud, evasion and avoidance, and money laundering. European businesses and people need to be protected against unfair competition from abroad. To achieve this, we will introduce an appropriate set of actions on taxation and address the distortive effects that certain foreign subsidies have on our single market."*

Public Input on OECD Pillar 1 & 2 Consultation Published

The OECD has [published](#) the public input received to the [consultation](#) concerning blueprints for [Pillar 1](#) (review of profit allocation and nexus rules to reflect digital business models) and [Pillar 2](#) (global anti-base erosion rules for a minimum effective taxation rate).

The [OECD G20 Report](#) and [Inclusive Framework Cover Statement](#) presented to Finance Ministers in advance of the G20 meeting scheduled for 14 October set out that the blueprints reflected "convergent views on a number of key policy features, principles and parameters of both Pillars, and identifies remaining political and technical issues where differences of views remain to be bridged".

A virtual public consultation will taken place in January 2021, with a view to an agreement being concluded and model draft legislation and guidelines for implementation being published by the Inclusive Framework by mid-2021. CFE

issued an [Opinion Statement](#) concerning the blueprints and intends to take part in the consultation in January.

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