Funding the Future

Why does Italy's Google Tax matter?

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As Bloomberg reported a week ago:

Italy's Parliament today passed a new measure on web advertising, the so-called "Google tax," which will require Italian companies to purchase their Internet ads from locally registered companies, instead of from units based in havens such as Ireland, Luxembourg and Bermuda.

The tax has stirred controversy, with some lawyers saying it probably violates European Union laws regarding non-discrimination over commercial activity and could be subject to legal challenges.

It has since been reported that the tax will not commence until July 2014, but I think that's part of the plan for this tax.

It is very hard to see how this tax is legal under EU law as it currently stands. That law quite clearly states that there is freedom to transact across national boundaries within the EU and this new law clearly seeks to restrict that freedom. Italy must know that is illegal, but despite that it has taken action. The question to ask then is why, and with what consequence?

I think the reason why is obvious. What Italy is seeing is that whatever the good intention of the EU's laws on the free movement of capital and trade might be some states - Ireland and Luxembourg being obvious examples, but with the Netherlands and on some occasions the UK also being in the frame - are simply abusing those rules to seek a tax advantage. And the plain fact is that this action on their part is intended to undermine the fair operation of markets, and is doing so.

What Italy is saying is that enough is enough: you can't expect them to play by the rules of open markets (subject to regulation) when a critical regulation on which those markets depends - tax - is open to abuse. And so they have drawn a line in the sand. They've said they cannot afford the losses to Ireland and Luxembourg and are challenging the EU to challenge them - when they know most states in the EU back them.

What will happen? I don't know. What I do know is that this puts more pressure on the OECD to find a solution to this problem - and of course, many of the major EU states are also members of the OECD. The challenge is also there for the EU to respond to.

But what is clear is that this is not a projectionist act: what it really represents is a clear demand for properly regulated competition on which all can compete on a level playing field. That is not available now. And that is what is needed. In that case it is Italy who is taking the pro-business and pro-market stance. And that's why their move is significant, and an issue to follow in 2014.