

# Towards a **Global Ad Tax** – Advertisement in a Political Economy and Political Ecology Framework

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**Josef Baum**, University of Vienna

+43 664 1142298 [josef.baum@univie.ac.at](mailto:josef.baum@univie.ac.at)

# Josef Baum

**University of Vienna**（奥地利维也纳大学）

**Interdisciplinary senior researcher**（跨学科高级研究员）

**Economist and Geographer**（经济学与地理学）

Dr. rer. soc. oec., Dr. rer. Nat.（社会与自然科学双博士）

**Department of East Asian Studies, University of Vienna**

**Institute of Geography and Regional Studies, University of Vienna**（任教于  
维也纳大学东亚研究系、地理与区域研究学院）

电子邮箱：[josef.baum@univie.ac.at](mailto:josef.baum@univie.ac.at)

个人主页：<http://www.josefbaum.at>

**Focus on Industrial, Regional and Ecological Economy, China**

<http://www.josefbaum.at>

+43 664 1142298

## Overview of presentation

- Advertising and the socio-ecologic transformation
- Socio-ecological background for regulation of ads
- Existing ad taxes and fiscal ad tax issues in Austria
- Statistics on ads are ads
- Fiscal (ad) tax issues and value theory (on digital work):

Key point: Localisation of liability to pay taxes =  
= where is the place of value (added) production

➔ Basis for the implementation

- For the inclusion of digital advertising into ad taxes
- For a global ad tax



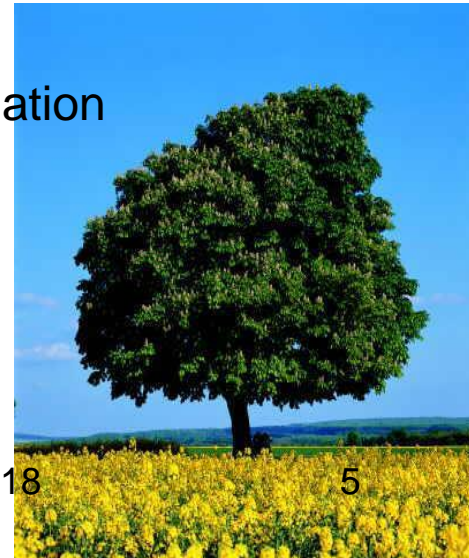
## Advertising and the socio-ecologic transformation

- Highly imprinting the individual in western societies, beginning with children
- Interaction of “big corporate” and “big media”. Media increasingly financed by advertising. New media like Google aggravate this phenomenon.
- advertising is blockading the transformation towards sustainability
- Advertising important in the globalisation of unsustainable consumer styles
- by strongly influencing the preferences,
- wasting of resources
- for protection of market power and so decreasing possibilities for fundamental innovations “lock-ins”.



## Advertising .....广告

- Commercial advertising is a **result of oligopolisation**. Because products often do not differentiate marketing by constructing brand images is made
- At the same time **advertising strengthens oligopolisation** in establishing by “entry barriers” and outkicking small and medium enterprises (SME).
- The consequence is the reduction of the role of “consumer sovereignty”
- Countries could avoid still undesirable developments by regulation



## Advertising .....solutions

- The ban of commercial advertisement would be optimal.
- But also step by step measures of strong regulations. See the successes in the advertisement for cigarettes in USA and EU.

Stopovers can be the

- *Ban of advertising in public spaces,*
- *The control of advertising on the Internet,*
- *The end the commercialization of childhood.*



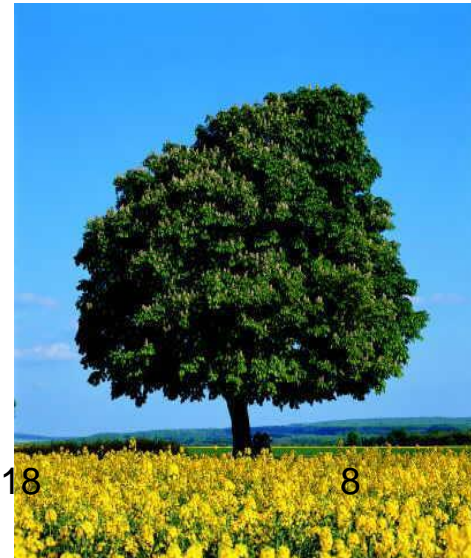
- In the neoliberal era taxes on advertising had been abolished or reduced - They could/SHOULD be AGAIN a relevant source for public budgets.

*Starting points for engagement to ad taxes:*

- Business models of Facebook, Google & Co based on ads
- Tax evasion models of Facebook, Google & Co
- 1968 and post-1968 vocabulary: „**Consumer idiots**“
- Regulation of structure of consumption relevant for **socio-ecological transformation**
- **Reform** demands and single measures can **mobilise for** and **promote** fundamental changes beyond capitalism



- Since long there has been a fundamental discussion about **sustainable consumption**, about its relevance and limitations.
- In a broader context the discussion on “**consumer sovereignty**“ (Scitovsky 1962) versus the shaping of preferences by marketing and the ad industry basically is an old issue
- E. g. Mander (2012) pinpointed a “**privatization of consciousness**” and the imprinting of the individual  
- beginning with children
- Well-known various **power relations** in respect to media and advertising.

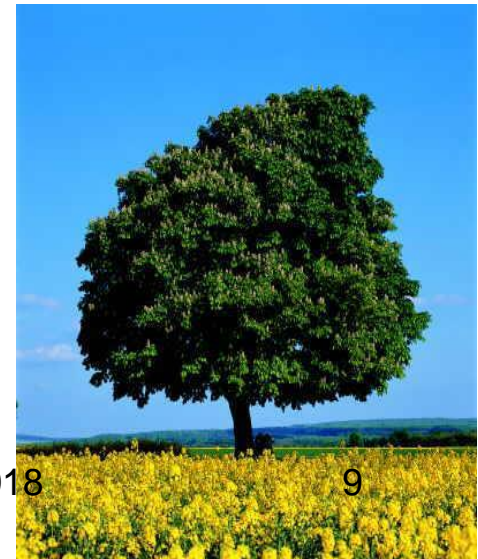




Despite strong oligopoly power and vested interested  
**REGULATION OF ADVERTISEMENTS WAS ACHIEVED**  
in many fields and countries:

- Limitation and cancelling for ads for tobacco products
- Limitation for alcohol products
- Limitation for sugar products
- Protection for children from aggressive ads
- Ban of advertising in public spaces
- (Weak) implementation of Code of Conduct for ads
- .....

*Why regulation by (further) ad taxes  
should not be possible?*



## 2 questions

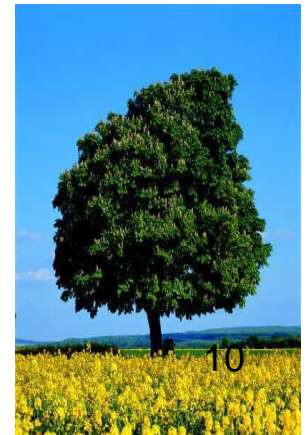
- Taxation of advertising reasonable?

8 European countries still have some taxation of some advertising on local or regional levels; weak regulation, erosion tendency

- taxation of online advertising feasible ?

No online advertising tax identified  
but possible

Transnational solutions better



## Ad Tax in Austria

- Since 1921 ad taxes (30 % in “Red Vienna” on the level of municipalities)
- in the 1990s: inconsistencies by different norms increasing, double taxation, tax competition, downward spiral in tax rates, increasing legal procedures

→ 2000 after jurisdiction new law on the level of the federal state - but tax revenues then distributed mainly to municipalities; halving of the ad tax rate to 5 %, **extension to ads from foreign TV-stations ?**

Ad tax rate is low →

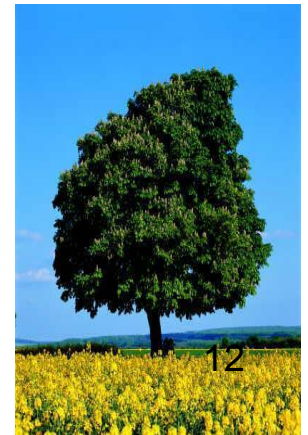
Tax revenue is 110 €mln =(only 0.1 % of total tax revenue)



# Principles of the judicature of the Constitutional Court of Austria

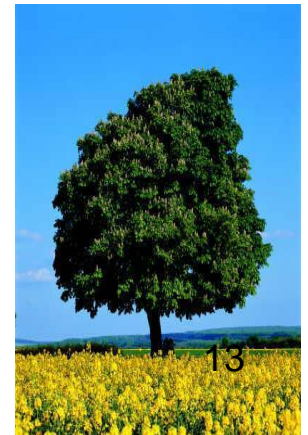
Inconsistencies by different norms in municipalities →  
increasing legal procedures, law suits at the constitutional  
court of Austria  
challenge: constructing some practical principle for distributing  
ad tax revenues  
result: **Not the location of the media or advertising firm is  
relevant but the location of the TV-sets – where ad is  
„received“**

→ extension to ads from foreign TV-stations - with  
Austrian specific ads



## Ad Tax in Austria – current problems

- Decreasing tax revenue in real terms
- Ads Shifting to online ad (=digital ad)  
=Shifting to foreign based companies
  
- Short term:  
**→Inclusion of online ads**
  
- Middle term  
**→Transnational solutions**



# Ad Tax in Austria – new power relations

**For many years hard battles in Austria:**

**Newspaper publishers + private (foreign) TV groups**

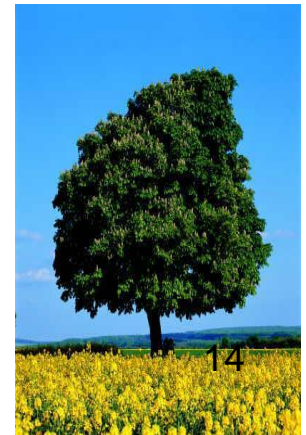
*versus*

**Public Austrian Broadcasting (ORF)**

**on restricting of Public Austrian Broadcasting  
in advertising and online services - to promote private  
business**

**And both for abolishment of ad tax**

**New situation since April 2015 ./.**



## Ad Tax in Austria – new power relations (2)

For many years hard battles in Austria:

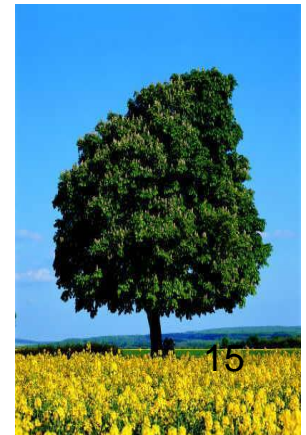
New situation since April 2015

Common front of **Newspaper publishers** + **Public Austrian broadcasting (ORF) including** + **private (foreign) TV groups**

*Against*

**Google & Co**

**Now together for lowering of ad tax rate but extension to digital ad tax**



## Restricting public media in Europe as a reason for the dominance of US oligopolies

One key reason why no substantial alternatives to US Internet dominance have prevailed in Europe so far is that the **potential of public media for the development of the Internet was not utilized and** even - as in Austria - **subject to legal restrictions.**

After the rise of Amazon, Google, Facebook and other companies to absolutely market-dominant global oligopolies just now with **Netflix** is developing another one - without significant European counter-activity, or objectively even by indirect promotion



## Arguments for the inclusion of online ad

If only Austrian based companies would be taxed:

- Some relocation of companies to other countries is probable
- SME would be hit stronger because their ability to relocate is lower
- The big and strongly dominating firms (Google & co ) are not hit.  
Oligopolpy theory as economic background for ads

**→ So a feasible solution has to include the foreign based companies** which are using ads that are “received” by Austrian “consumers”

*But how to meet foreign based companies?*



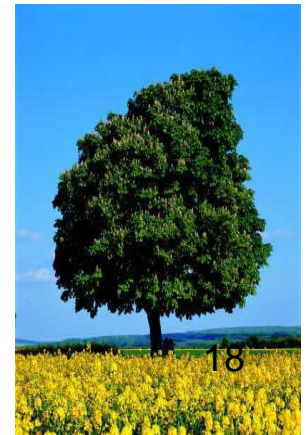
## Technically no basic problems

### **Taxable bases are the money flows for digital ad tax**

#### **Possible Accounting for digital ad tax by**

- Fixed costs
- CPM (cost per „mille“ - 1000 impressions)
- CPC (cost per click)
- CPE (cost per engagement; interactions)
- CPV (cost per view, videos)
- CPO (Cost per Order;
- CPA (Cost per Action, realized business cases)

#### **territorial attribution by IP-adresses**



# Statistics on ads

**mostly are ads**

**→ *be carefule on ad statistics***

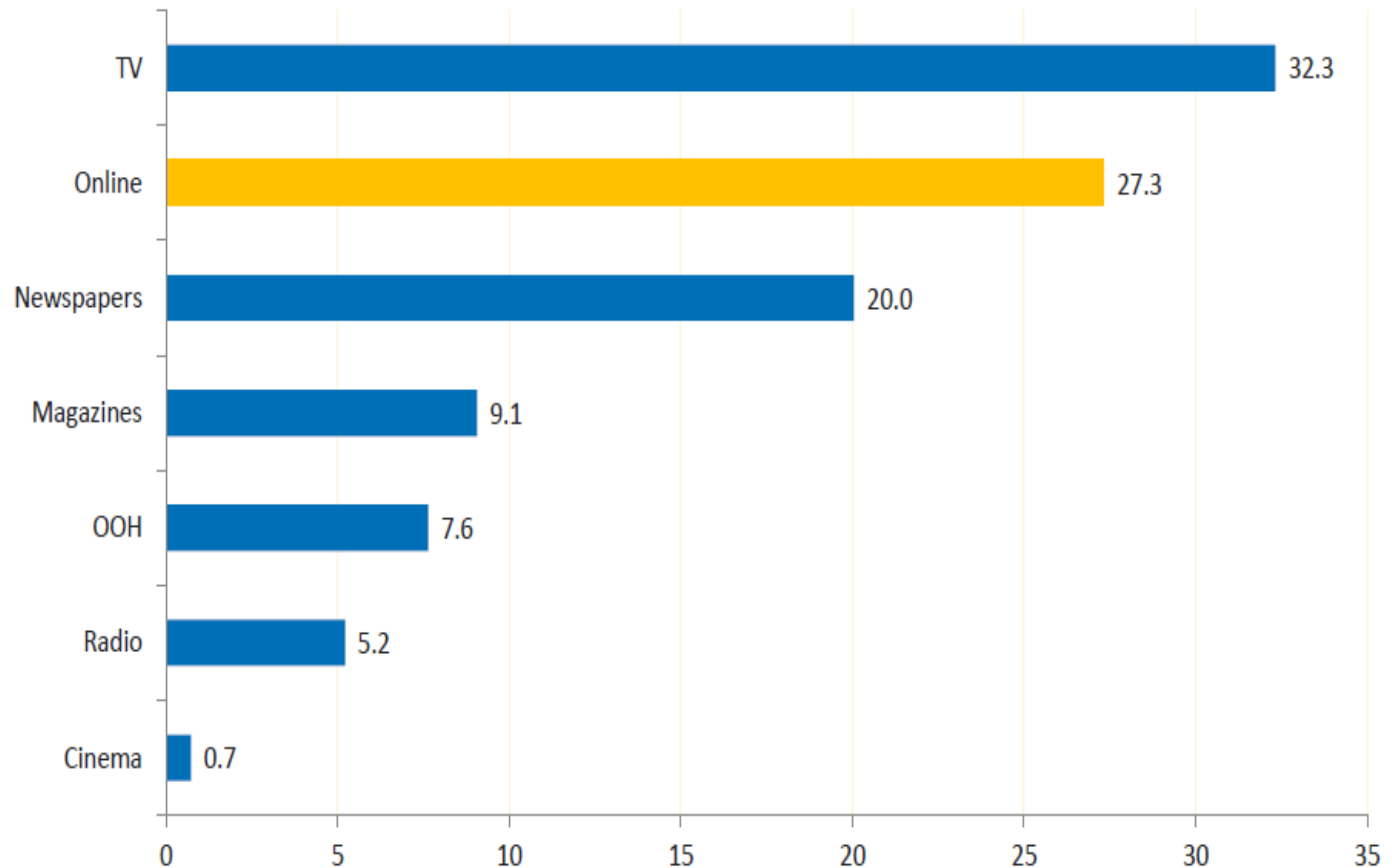
# “Top ten” ad markets

*US\$m, current prices. Currency conversion at 2013 average rates.*

2014		Adspend	2017		Adspend
1	USA	176,006	1	USA	197,536
2	China	45,491	2	China	62,076
3	Japan	44,520	3	Japan	47,842
4	Germany	24,597	4	UK	26,475
5	UK	22,525	5	Germany	25,540
6	Brazil	16,686	6	Brazil	20,015
7	France	13,086	7	South Korea	14,918
8	Australia	12,317	8	Australia	13,060
9	South Korea	11,670	9	France	12,985
10	Canada	11,159	10	Argentina	12,545

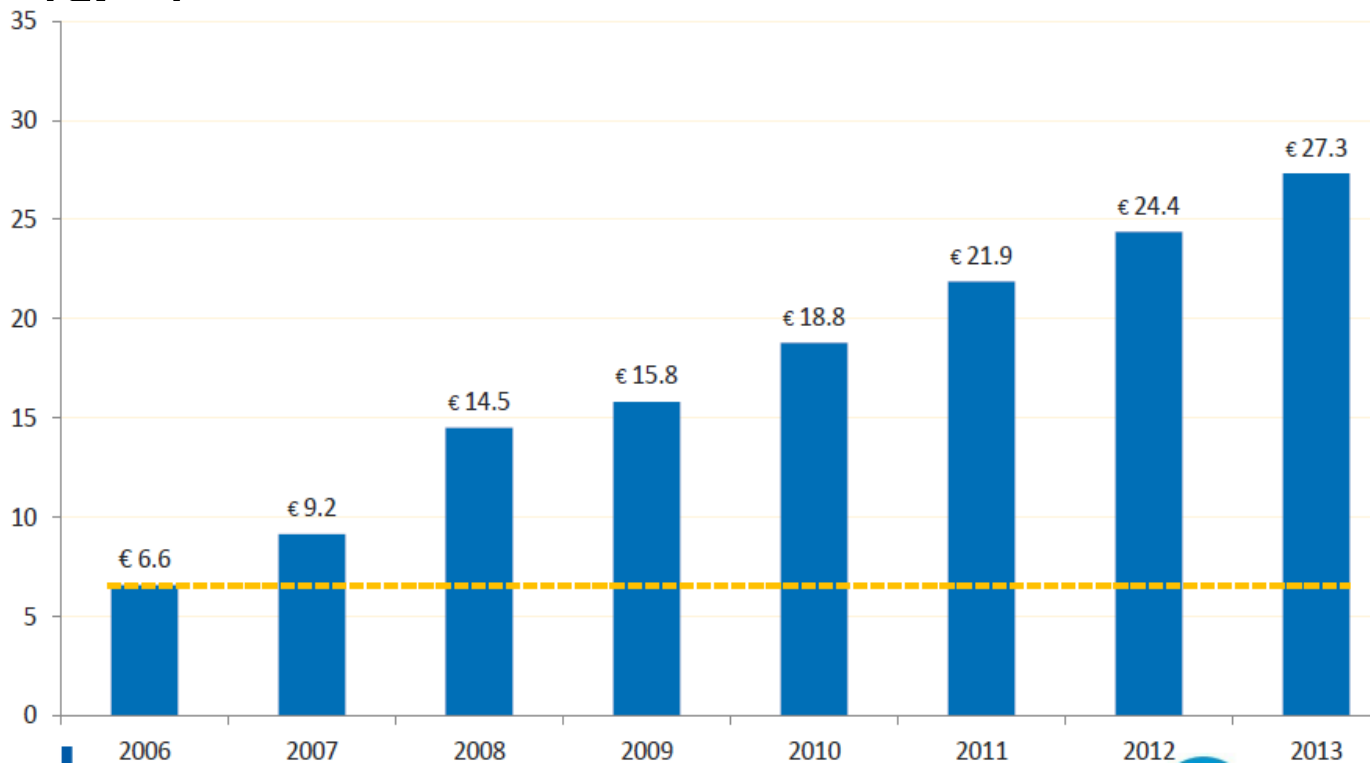
*Source: ZenithOptimedia*

# Ad spend by category in Europe in 2013 (€bn)



IAB Europe (July 2014): AdEx Benchmark 2013

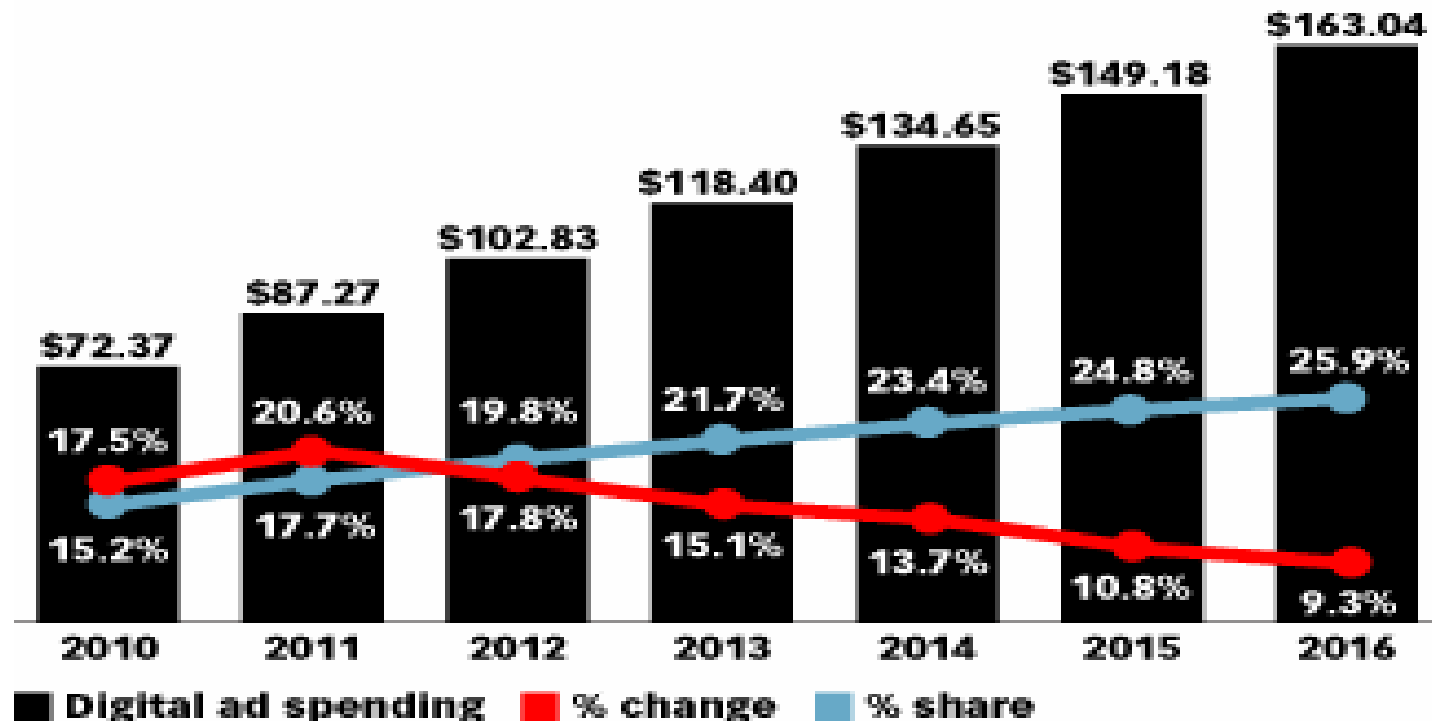
# Digital Advertisement expenses in Europe



IAB Europe (July 2014): AdEx Benchmark 2013

## Digital Ad Spending Worldwide, 2010-2016

billions, % change and % of total media ad spending



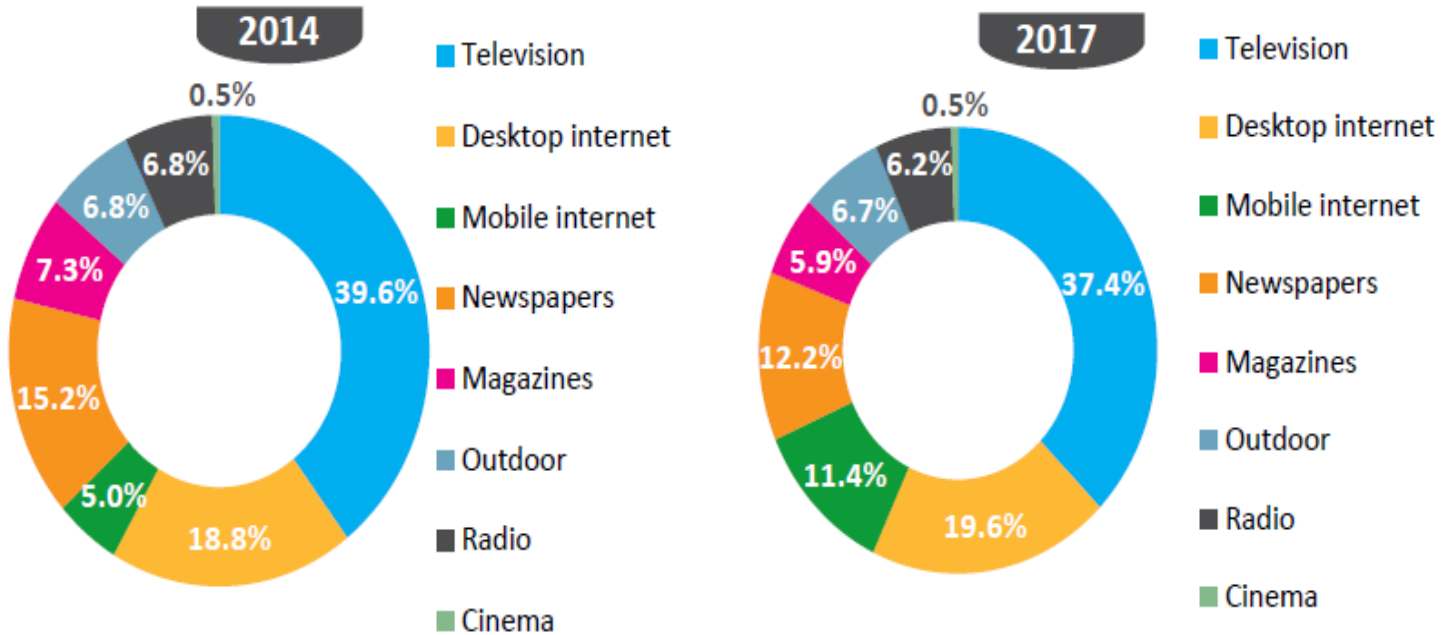
Note: includes advertising that appears on desktop and laptop computers as well as mobile phones and tablets, and includes all the various formats of advertising on those platforms; excludes SMS, MMS and P2P messaging-based advertising

Source: eMarketer, Dec 2012

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www.eMarketer.com

Share of global adspend by medium (%)



Source: ZenithOptimedia



## Background in oligopoly theory

•Joan Robinson, E. H.Chamberlin in the 30ies:

“**monopolistic competition**”:

Struggle between oligopolies in saturated markets: Product differentiation – branding – more of the same

→**advertisement** as

1. consequence of oligopolisation and
2. as further promotion of oligopolisation

## **Background in oligopoly theory (2)**

**→ advertisement as**

Investments in market barriers –  
and not in innovation

**→ Implicates**

- stagnative tendencies
- anti-innovative tendencies

***Compatible with Marxist theory***

## Big scale corporate tax evasion

Growing public awareness

- OECD: „**BEPS**“ (base erosion, profit shifting)
- Tax evasion of big internet companies in VAT and corporate taxes basically much more important than ad taxes
- some common basic problems at general tackling tax evasion and particularly taxing (digital) ads
- Governments under pressure to act – some current initiatives

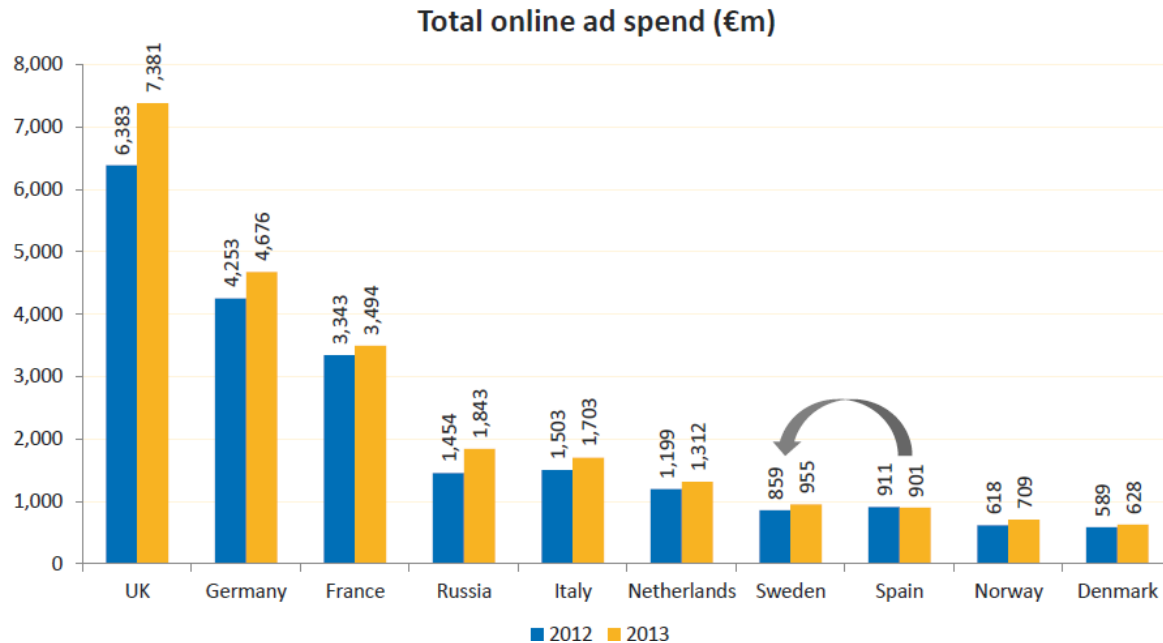
# Hungary

In the context of the nationalist Orban agenda

- June 2014 law on ad tax
- **PROGRESSIVE** tax rates between 0, 1, 10, 20, 30 und 40 %
- Practically against biggest European media corporation RTL  
power struggles RTL – EU - Orban government

Then agreement for ad tax with 5% rate - similar to Austria +some Hungarian control on RTL in H

# Online advertisements 2012 and 2013 in various countries (€mln)



## **GB: “Diverted Profit Tax“**

- To overcome “Irish Double”- tax avoiding structures by Google &Co
- In force since April 2015
- Directed on corporate income taxes- but advertisement as business model in the focus – similar to possible ad tax
- New territorial principle on liability to pay tax**

“A radical departure from the principle that the UK will not tax the profits of foreign companies doing business with UK clients/ customers, unless those companies have a UK ‘permanent establishment’“

**“For the first time companies outside the UK could be subject to UK tax merely for doing business with the UK”.**

*Comments from a tax consultant office*

## **Arguments of Google at the committee of the British parliament**

Google

- \*accepts that profits should be taxed under the jurisdiction in which the economic activity that generates these profits takes place,
- \*claims, however, that the underlying economic activity in online advertising comes from the software underlying the search engine based in California.

**BUT:**

- \*Online advertising usually is personalized by country and location and is therefore not static
- \*See discourse on value creation in advertising

# Where does value creation occur in online advertising?

Dallas W. Smythe in the context of communication science and current extension by **Christian Fuchs** for new social media:

"Consumption" of advertising as **“audience work”**

The purpose of investment in advertising is to create and influence the preferences of consumers by **bonding them to products and brands** (brand value)

The (brand) value creation at targeted advertising is mainly based twofold:

1. by **time for communication activities** resulting in structured user data useable for personalized targeted ads) and
2. by time for **"consumption" of advertising**



## **The use of IP addresses reliefs the implementation of ad taxes**

The IP address identifies the computer network from which you connect to the Internet. **By the IP address not only the country but the concrete region of the user is identified (and usually is stored and aggregated)** at each access.

For a consistent implementation of an ad tax the location of the user is a crucial variable: If an Austrian is currently in Germany, a German tax law should be appropriate.

## **2 Proposals of the European Commission**

(March 21, 2018)

**to tax revenues from digital interfaces and utilisation of user data (NOT: e-commerce):**

### **Directive 1: Interim solution**

Proposal for a Directive on a 3% Digital Services Tax on applicable revenues

### **Directive 2: Long term measure**

Taxation of digital activities based on the digital presence of a business (“**virtual office**”)

## **Key point to clarify**

**for feasible solution to tax big companies  
which have a business model based on advertisement  
(Google, Facebook and others)**

**Localisation of liability to pay taxes =  
= where is the place of value (added) production at  
advertisements**

**Value theory!**

# ➤ Convergence of 3 strands for a consistent solution

## 1. **Communication science:**

**Smythe + Fuchs concepts on audience work and digital labour**

## 2. **Judicature**

**Principles of the judicature of the constitutional court of Austria (principle of „receiving“)**

## 3. **Economics and Finance**

- **Basics of the „Diverted Profit Tax“ (GB)**
- **Basics of BEPS-proposals (OECD)**
- **Underlying principles of current proposals of the EC:**  
***Effective taxation at the location of value creation***

## ➤ Convergence of 3 strands for a consistent solution

1. Communication science:
2. Judicature
3. Economics and Finance

## ➔ Sound Basis for implementation

- For the inclusion of digital advertising into ad taxes
- For a global ad tax

# Where does value creation occur in online advertising?

1. Place of commission (**advertiser**)?
2. Place of production of advertising (**advertising agency**)?
3. Place of production of **software** for advertising
4. Location of "dispatching" or location of the underlying **server**?
5. Location of the company's **headquarters** that makes profit with advertising?
6. Place of the **operative department of the company**, which makes profit with the advertisement (would be Ireland at Google's case in the EU)?
- 7. Place of actual receipt of the advertisement** or the emergence of advertisement value

***FROM ALL A BIT; BUT MAINLY 7***

## The tax-technical enforcement at an advertising tax is much easier than at profit taxes

While there are a number of (manageable) **problems in the calculation of profits and their territorial allocation** (residual value, definition of permanent establishments, royalties, etc.), the inclusion of online advertising in an advertising tax (as an transaction tax) is much easier.

The payments of tax taxes can be done **quickly** after the advertising service and their billing.

- Basically by the achieved technical level in the large enterprises basically the implementation of an ad tax **could be managed almost automatically.**



## There remains the problem of enforcement...

Relevant precedents for compliance and enforcement:

- Precedent ongoing payment of advertising tax by German television stations in Austria
- Precedent local tax for room transfers via Airbnb
- **Enforcement Model similar to EU General Data Protection Regulation (GDPR)**

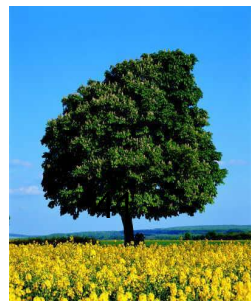
Article 83 (4) and (5) Articles 83 (4) and (5) provide for the possibility of imposing fines of up to 2% and 4%, respectively, of the total annual turnover of a company

*Advertising tax in Hungary is not a positive precedent*



# Conclusions

1. As long as adequate taxation of profits can not (be) carried out beyond the national state, a (national) transaction tax on ads **can be a step to more tax fairness altogether.**
2. An ad tax could be a measure **to regulate consumption in an sustainable socio-ecological mode** – from soft low tax rates also to substantial high rates, or by differentiated rates; resulting in rudimental realization of “consumer sovereignty” and limiting oligopoly power
3. A **global ad tax** – similar to a global financial transaction tax (Tobin tax) should be a mid term goal



**THERE IS NOTHING  
MORE PRACTICAL THAN  
A GOOD THEORY**

***EINSTEIN***