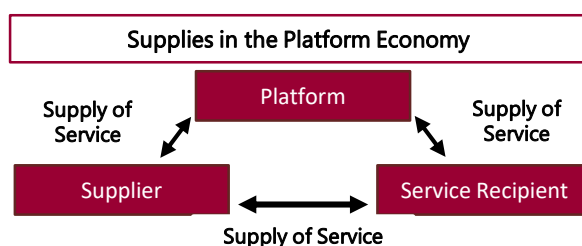


# New Intermediaries in European Value Added Tax: Services in the Platform Economy as a Case Study

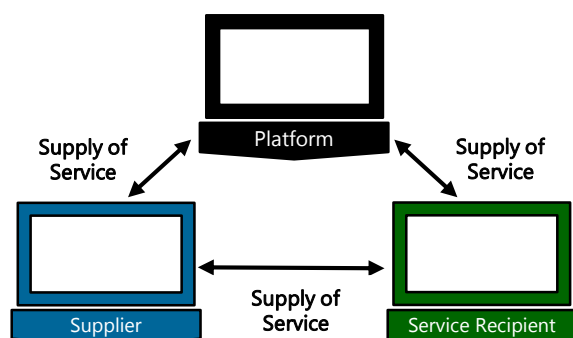
## Socio-Technological Considerations

- Much of today's **trade** takes place via the **Internet**.
- Internet platforms (intermediaries) enable their **users** to coordinate by means of the internet and **exchange services amongst each other**.
- Users of internet platforms often **take the role of the supplier** of the services provided by the platform (so-called "prosumers").

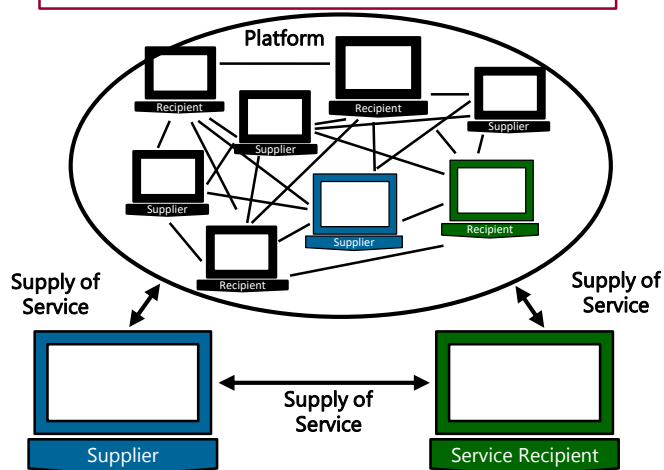


- Most internet platforms are being operated by a **central** entity: examples Airbnb, Ebay, Rakuten or Uber.
- Some internet platforms are "**distributed**" and administered by all their users: example Bitcoin blockchain.
- Distributed internet platforms often aim to **make third-party intermediaries redundant**, because they enable direct transfer of digital assets (e.g. cryptocurrencies such as Bitcoin) from one user to another. The identities of the distributed platforms' users are **encrypted**.

### Centralized Platform



### Distributed Platform (Blockchain)



## Substantive VAT Law

- **Challenges:** In the Platform Economy, the lines are blurred between active market participants and consumers. The question arises as to **who is acting in an economic capacity** within the meaning of Article 9 of the VAT Directive and whether they can act as a third-party intermediary for tax enforcement purposes.
- Internet platforms as well as individual users are **potential taxable persons and third-party intermediaries:**
  - ❖ Where internet platforms are being operated by a **central entity**, that central entity may qualify as a taxable person under Article 9 of the VAT Directive.
  - ❖ However, it may be difficult to identify a taxable person, where there is only an open **network of users**.
  - The ECJ's "**economic approach**" based on "substance-over-form" allows for a legal assessment of these new social and economic developments. The **existing concepts of the VAT Directive** may, however, **not** be sufficient to classify them with **legal certainty**.

## VAT Enforcement

- **Challenges:**
  - ❖ Services are being offered and often also supplied via the **Internet** (Article 7 of the VAT Implementing Regulation).
  - ❖ Users of internet platforms (suppliers and service recipients) can be **based anywhere around the world**, whereas taxes are enforced according to the principle of **territoriality**.
  - ❖ Authorities are **hardly** able to **identify users** of distributed platforms, due to **encryption**.
  - ❖ Administrations must find ways to ascertain, **where** taxable supplies are being made and – regarding distributed platforms – **who** is making those supplies.
- Some of the above-mentioned problems might be solved by means of **data analyses** and **intergovernmental cooperation**.
- Regarding public distributed platforms, however, the question of **who may be held accountable** remains unanswered for the time being.
- Governments must try to answer these questions, while respecting the **fundamental human rights** (such as the right to respect for private and family life, the protection of personal data and the protection of property).