

Rethinking Taxation in the Digital Economy

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Philippine Institute for Development Studies

Surian sa mga Pag-aaral Pangkaunlaran ng Pilipinas

Digital Economy – Previous Works

- Cuenca – What is the market/taxable base?
- Serafica – Trace through the value chain, revenue models
- Serzo – Problematic scenarios
- Now – Legal analysis of transactions, taxability

Digital Economy - Friction Points for Taxation

- Complexity
- Absence of Physical Presence (Locally)
- Intangible Assets

Tax Law

Based on physical nexus

- Of actors
- Of transaction
- Of the subject

Tax Law

- Territoriality (actual physical nexus)
 - Taxed on income from sources “within the Philippines” (attribution)
- Nationality (constructive physical nexus)
 - Taxed on income from local, foreign sources

Tax Law

- Tax authority, tax administration based on awareness, access of physical location
 - (Localized) Registration
 - Point of Sales Permit
 - Receipts Printing and Issuance
 - Physical mapping and inspection
 - Physical apprehension of actors and subjects

Tax Law

- Local Legislation
 - Digital Services Tax (Proposed)
 - Clarificatory circulars
- International Tax Law
 - Network of bilateral treaties
 - To address double taxation

Tax Law

- Base Erosion Profit Shifting (BEPS)
- Permanent Establishment (PE)

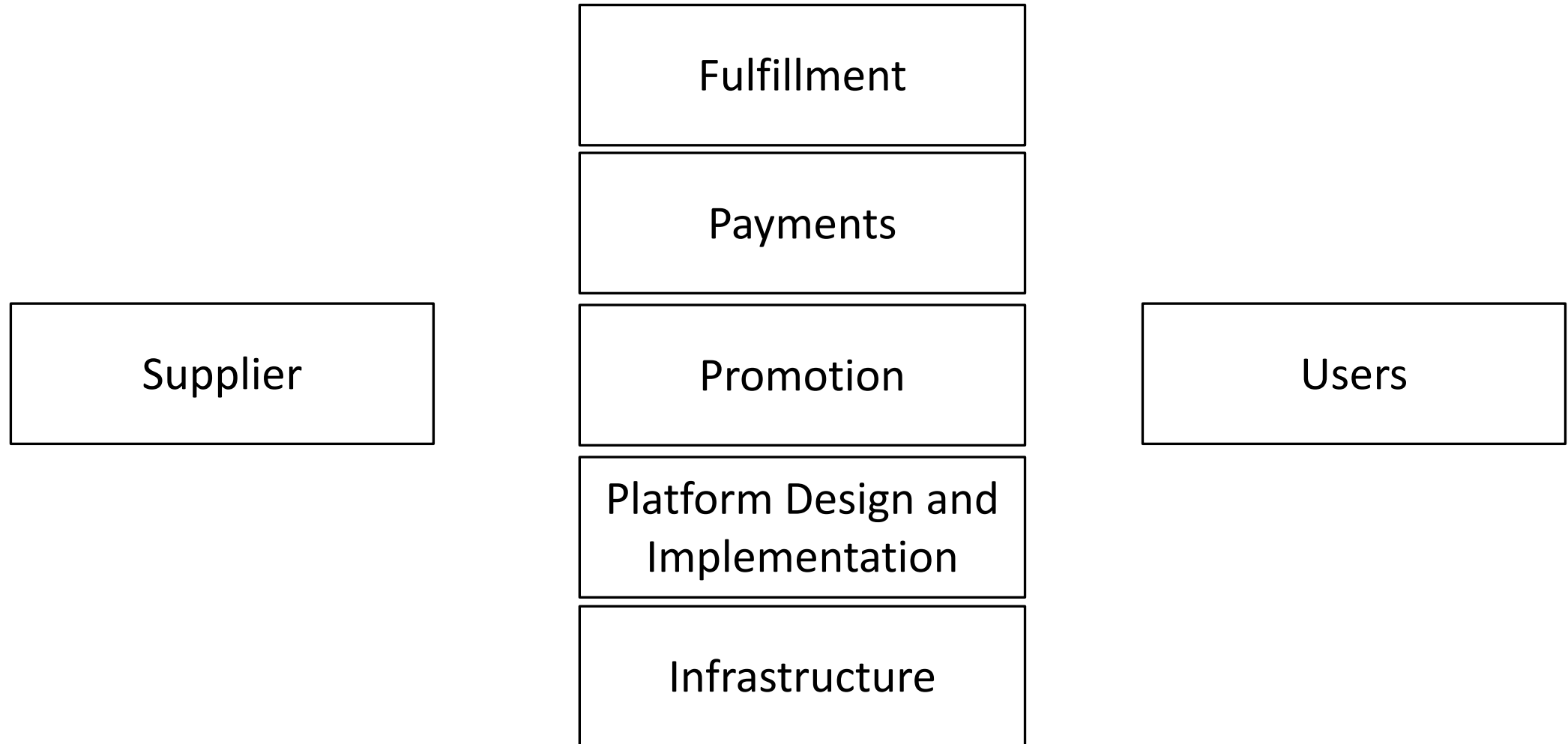
Tax Law

- OECD 2-Pillar Solution
 - Re-allocation of taxing rights
 - Global anti base erosion mechanism
- EU, US Solutions
- Africa
- ASEAN

Gap Analysis

Fulfillment	Logistics, Drivers
Payments	Banks, Non-Traditional Payment Systems
Promotion	Advertising Networks, Content Developers
Platform Design and Implementation	Platform Operators, Developers
Infrastructure	Telecommunications, Hosting

Gap Analysis



Gap Analysis

Revenue Model	Variation on Revenue Model	Examples
Subscription	Subscription for media content	Netflix, Apple TV
	Subscription for physical goods	Hello Fresh, Cratejoy
	Subscription to applications	Office 365, Zoho
	Provision of technology	Azure, AWS
	Access to information	LexisNexis, Bloomberg
Pay-As-You-Go	Licensing of media for consumption	iTunes, Sony Store
	Payment for applications	iOS App Store, Google Play Store

Gap Analysis

Revenue Model Variation	Example	Actor
Purchase and delivery of tangible goods	Amazon, Lazada (Online Marketplace)	End-user
		Online Marketplace
		Online Seller
		Manufacturer
		Payment Systems Provider
		Technology Provider
		Internet Service Provider
		Advertiser
		Delivery Driver

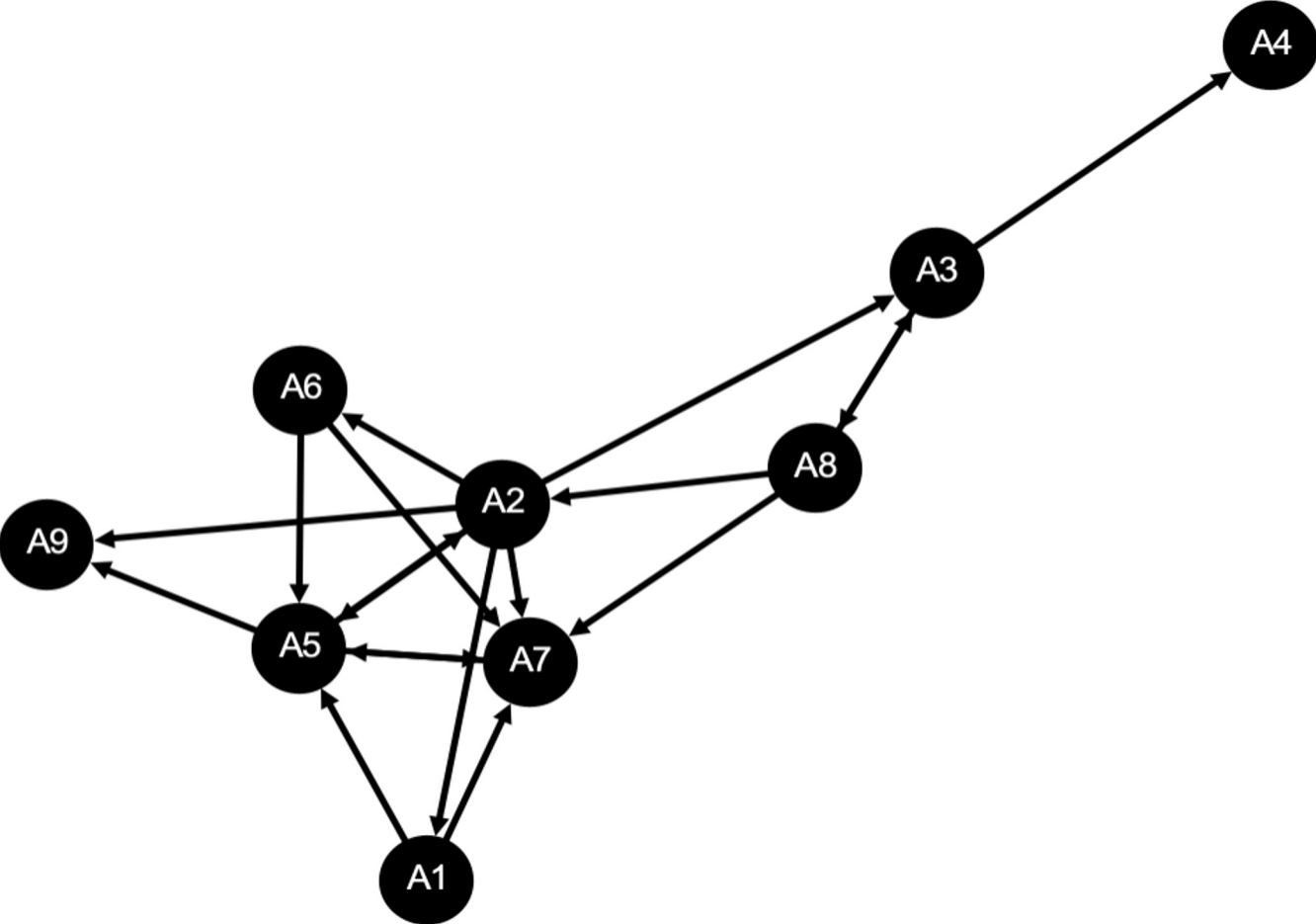
Gap Analysis

Revenue Model	Actors	Outward Flow of Value Related to Actor
Purchase and delivery of tangible goods - E.g. Amazon, Lazada (the Online Marketplace)	End-user	<ul style="list-style-type: none"> End-user pays through or (loans from) Payment Systems Provider (for Online Marketplace)
		<ul style="list-style-type: none"> End-user pays Internet Service Provider
	Online Marketplace	<ul style="list-style-type: none"> Online Marketplace pays Online Seller
		<ul style="list-style-type: none"> Online Marketplace pays Payment Systems Provider
		<ul style="list-style-type: none"> Online Marketplace pays Technology Provider
		<ul style="list-style-type: none"> Online Marketplace pays Internet Service Provider
		<ul style="list-style-type: none"> Online Marketplace pays through Payment Systems Provider (for Delivery Driver)
		<ul style="list-style-type: none"> Online Marketplace pays cashback (discount) to End-user

Gap Analysis

	A ₁	A ₂	A ₃	A ₄	A ₅	A ₆	A ₇	A ₈	A ₉
A ₁	-	0	0	0	1	0	1	0	0
A ₂	1	-	1	0	1	1	1	0	1
A ₃	0	0	-	1	0	0	0	1	0
A ₄	0	0	0	-	0	0	0	0	0
A ₅	0	1	0	0	-	0	1	0	1
A ₆	0	0	0	0	1	-	1	0	0
A ₇	0	0	0	0	1	0	-	0	0
A ₈	0	1	1	0	0	0	1	-	0
A ₉	0	0	0	0	0	0	0	0	-

Gap Analysis



Gap Analysis

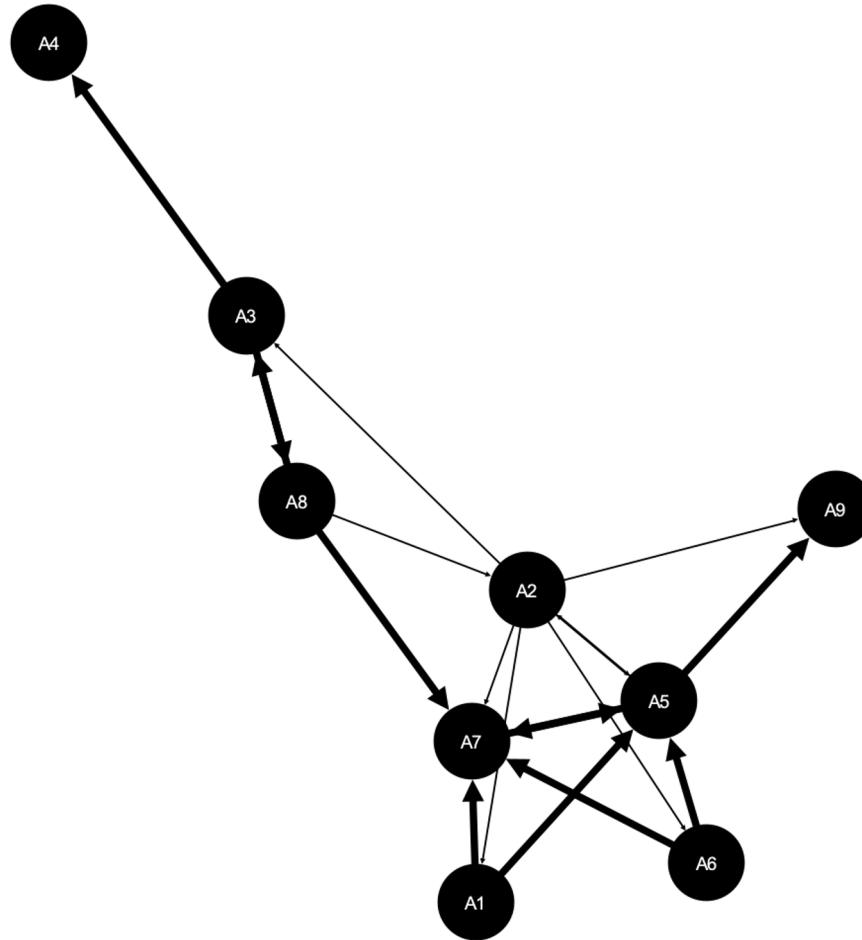
1	2	3	4
Attribution to the source of revenue to local jurisdiction	Computation of base and rate	Surveillance mechanisms, such as data submissions, and audits)	Enforcement mechanisms in case of delinquency

Gap Analysis

Score is based on presence of a law that maps to any of the previous modalities:

1. Statute – NIRC, TRAIN, CREATE, Tax Treat OR
2. Interpretative Issuances (RMO, RMC)

Gap Analysis



Key Informant Interviews

- Atty. Nico Valderrama – Private Tax Practitioner
- Atty. Josephine Gomez – Assistant RDO
- Atty. Mark Joven – Usec, DoF
- Revenue District Officer, BIR
- Deputy Commissioner, BIR (Pending)

Findings

- Central role of platforms, payment systems
- Disparity of tax coverage

Recommendations

- Optimize existing tax authority over platforms, payment systems

Recommendations

- **Digital-ready tax administration**

Recommendations

- Expanded scope for investigation and liability

Recommendations

- Engagement at the international level

Further Development

- Comparative volume of flows (by actor, by country)
- Effectivity of law in a scale (not all legal responses equal, or consistently implemented)



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