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Tax Justice Network Virtual Conference:
Where next for global taxing rights?
Technical and political analyses of the OECD tax reform

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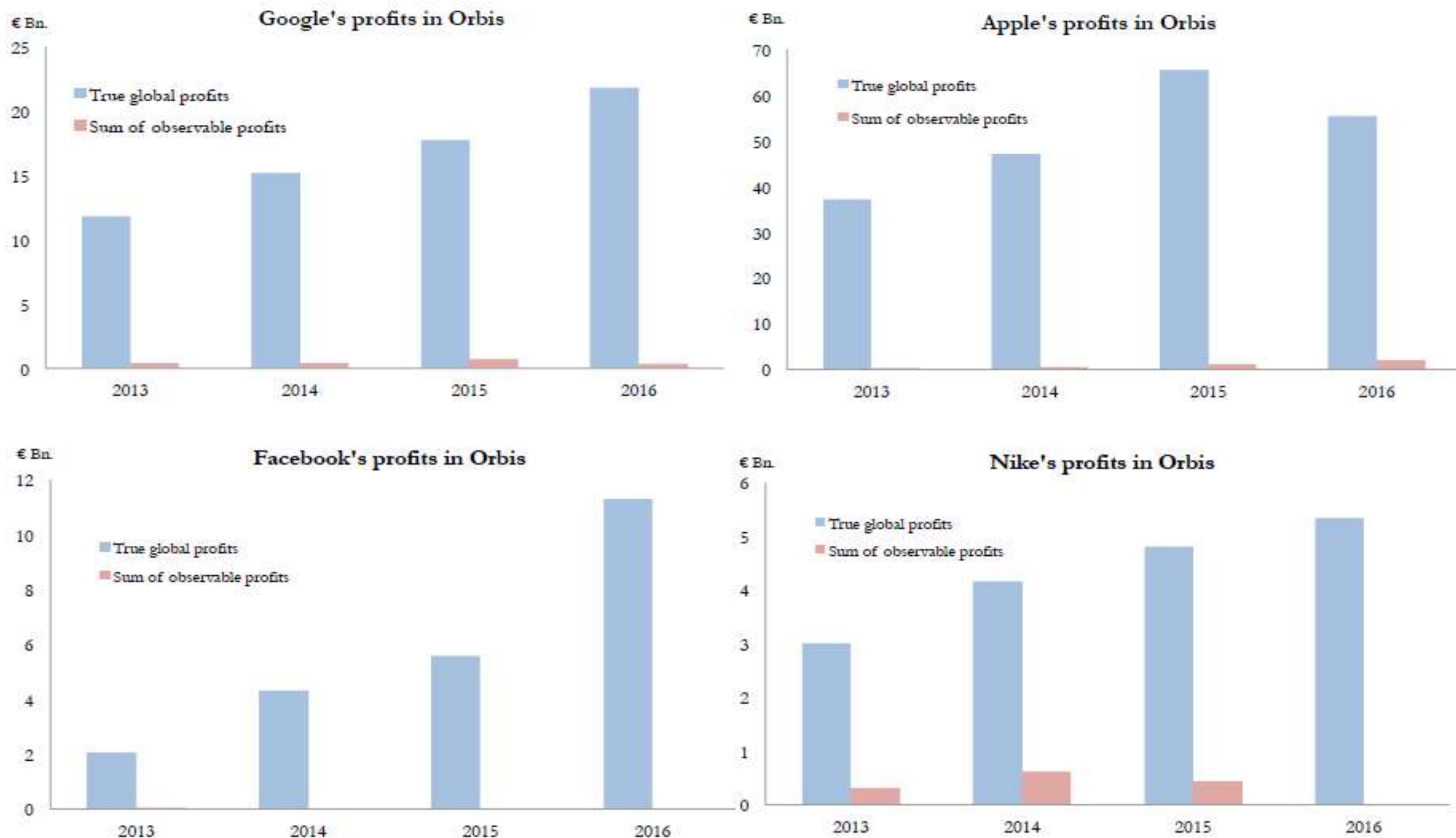
MNCs get away with paying much less tax than other companies, with negative effects on public revenues across the world

- MNCs manage to avoid taxation in most countries, by shifting their declared costs and revenues through transfer pricing across subsidiaries, or "base erosion and profit shifting" (BEPS).
- Matters have got even worse with digital companies, some of the largest of which make billions of dollars in profits across the globe, but pay barely any taxes anywhere.
- Government revenues losses from this are huge: Christian Aid estimates $445 billion a year; IMF estimates $500 billion a year.
- As a result, governments lose money that could be used for public spending to meet climate challenges, create better job opportunities, provide social protection and meet citizens' socio-economic rights.
- This also creates an uneven playing field, since domestic companies have to pay taxes that MNCs can avoid.
- Also, economic indicators like trade flows, FDI, profits, etc are all misleading because they are influenced by this MNC behaviour.

Global profits of MNC are much larger than the observed profits of subsidiaries (Torslov, Wier and Zucman 2019)



Notes: This graph shows the difference between Apple's, Facebook's, Alphabet's, and Nike's global consolidated profits, and the sum of the profits made by Apple's, Facebook's, Alphabet's, and Nike's subsidiaries, as recorded in Orbis. The difference is due to the fact that the subsidiaries where these firms make the bulk of their profits are not visible in Orbis. Source: authors' computations using Orbis data.

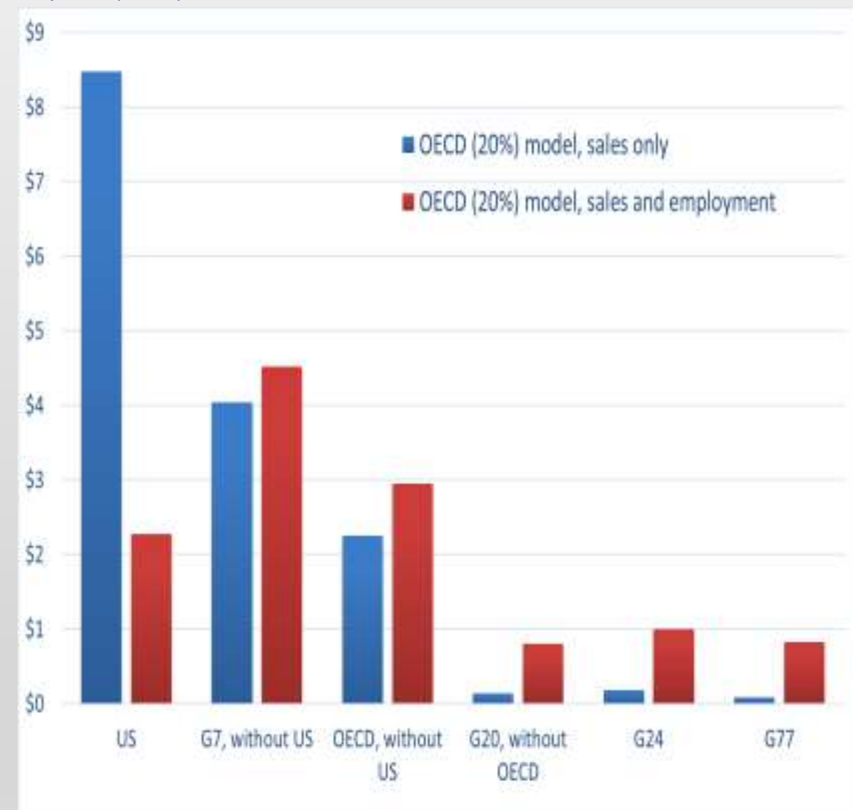
What can be done about this?

- Simple idea: since an MNC actually functions as one entity, it should be treated that way for tax purposes.
- So the total global profits of a multinational should be calculated, and then apportioned across countries according to some formula based on sales, employment and users (for digital companies).
- This is a method already used in the United State, where state governments have the power to set direct and indirect tax rates.
- Easiest if there is a global minimum tax rate (ICRICT has suggested 25%).
- Then, each country can simply impose taxes on the MNCs operating in their jurisdiction, based on their own shares according to the formula.

The OECD BEPS Initiative has finally accepted the basic idea – but there are flaws in its proposal

- The OECD has finally accepted the idea of unitary taxation – but with some features that make the whole exercise almost pointless.
- It wants to use only sales as the basis for distributing profits – this acts against developing countries that are major producers for many MNCs, but buy less.
- It is also suggesting much lower minimum tax rates.

Projected per capita revenue increases, OECD (20%) model



Source: "Global inequalities in taxing rights: An early evaluation of the OECD tax reform proposals" by Cobham, Faccio, Fitzgerald (2019). https://osf.io/preprints/socarxiv/j3p48/

Other problems with the OECD proposal

- The biggest problem is the arbitrary separation between what OECD calls "routine" and "residual" profits, and the proposal that only residual profits will be subject to unitary taxation.
- The idea is to define what "residual profits" are and then allocate some proportion of that to market jurisdiction. This will basically leave current transfer pricing rules in place for a) all "routine profits", and b) the part of "residual profits" that is not allocated to market jurisdiction
- So the current transfer pricing rules, which allow profit shifting, would remain in place for vast majority of MNC profits.
- This has no economic justification, since profits are anyway net of various costs and interest.
- This defeats the entire purpose and will probably ensure that very little of the total profits of MNC are actually subject to this global tax.
- In fact, no system of corporate taxation anywhere in the world that makes such a distinction – so why should an international system rely on this?

The OECD process also has limitations

- Some developing countries have recently been admitted into the discussions, but they still seem to have very little negotiating power.
- Of the 3 proposals (US, EU and G24 group of developing countries), the G24 proposal was not taken on board at all.
- Many asymmetries within the process: of information (data and the ability to analyse it); of size and geopolitical strength, which affect negotiating power; and of interests (exporters and importers of capital and technology have different interests, etc.)
- These need to be recognised, reduced and counterbalanced.
- There are also problems of equity and fairness, if the entire global population is considered, in terms of distributing tax revenues. Should this be based on formula or per capita, for example?
- Developing countries may be best served by negotiating as a group.

It's crucial to bring these issues and concerns to public attention in both developed and developing countries.

This has the potential to benefit citizens everywhere, but we have to fight the tremendous lobbying power of MNCs and the vested interests of some governments.

Thanks for your attention!