



DTCE urges the UK to faithfully transpose Directive 2010/45

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An association established in 2011, Digital Trust and Compliance Europe (DTCE) brings together businesses and practitioners with an interest in trust and compliance methods and technologies in Europe.

Having had sight of the proposed UK transposition of the electronic invoicing provisions contained in Directive 2010/45, DTCE wishes to advise HMRC and European Commission DG TAXUD that complete and faithful transposition of Article 233 –a key provision affecting electronic invoicing– is a precondition to achieve the harmonization that the Commission and Member States have so vigorously pursued in the negotiations during 2009 and 2010.

EU Member States have different views and preferences concerning the way in which integrity and authenticity of e-invoices should ideally be guaranteed. These differences led to a “choice menu” approach in 2001, resulting in transposition cherry-picking and a lack of uniformity for which Europe has paid dearly – going from a pioneer position on e-invoicing in 2001 to one of the world’s e-invoicing laggards in 2012. The principal concept of the 2010 e-invoicing modifications was to ensure that all Member States accept the full spectrum of options viewed as viable throughout the EU, and not only the ones each Member State thought best. On this very important point, Directive 2010/45 does not provide a choice menu with options that Member States may or may not decide to include in their legislation; Article 233 must be transposed in its entirety.

DTCE considers complete transposition of Article 233 by Member States –including explicitly declaring the methods mentioned in Article 233(2) as *de iure* sufficient for compliance– critical to honour the spirit of the aforementioned Directive as well as a legal obligation. Incomplete transposition resulting from including only Article 233(1), which appears to be the intent of the UK, would in effect remove the legal certainty that is indispensable to e-invoicing and that has been awarded to the methods stated in Article 233(2) since entry into force of Directive 2001/115. Hundreds of millions, and soon many billions, of electronic invoices using these compliance methods in the EU would as a consequence benefit from upfront legal recognition in other Member States, whereas in the UK trading partners could no longer be certain of this legal effect. We are certain that this is not the result the UK seeks to obtain with its proposed new VAT e-invoicing legislation.

For these reasons, DTCE strongly encourages the UK to fully conform to Directive 2010/45 by transposing Article 233 in its entirety.

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