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Answer given by Mr Hoekstra
on behalf of the European Commission
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Article 73 of Council Directive 2006/112/EC¹ on the common system of value added tax (VAT) states what is included in the taxable amount. Article 78 of the same Directive clarifies that the taxable amount should not include VAT. However, neither Article determines how a platform calculates its commission, which is a commercial decision made by the platform and not an issue regulated by the VAT Directive.

Regulation (EU) 2019/1150² on promoting fairness and transparency for business users of online intermediation services is without prejudice to national civil law, insofar as those rules are in conformity with EU law. As such, depending on the circumstances of the case, the practice of VAT influencing a fee would primarily have to be assessed in the light of applicable national contract law. In addition, Regulation (EU) 2019/1150 contains no rules on whether online platforms may calculate fees on accommodation costs after VAT has been applied. This being said, internal remuneration paid by business users to online intermediaries forms a substantial part of the final price paid by travellers. Given that travellers are particularly price-sensitive, even small price increases can affect booking behaviour, creating strong competitive pressure on travel agents to keep overall prices low and therefore prefer platforms with more competitive intermediary fees.

Against this background, Regulation (EU) 2019/1150 has contributed to provide a fair and effective market access to online intermediation services for business users. However, given its significant overlaps with other legislation of the EU digital rulebook which address the same objectives, this Regulation is proposed to be repealed as part of the Digital Omnibus proposal.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02006L0112-20250414>, OJ L 347, 11.12.2006, p. 1–118.

² <https://eur-lex.europa.eu/eli/reg/2019/1150/oj/eng>, OJ L 186, 11.7.2019, pp. 57–79.