



# Model Reporting Rules for Digital Platforms: Frequently Asked Questions

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The OECD maintains and regularly updates this list of frequently asked questions (FAQs) on the application of the [Model Reporting Rules for Digital Platforms](#) (MRDP). The questions set out in these FAQs were received from business and government delegates. The answers to such questions clarify the MRDP and help to ensure consistency in their implementation.<sup>1</sup>

## Section I: Definitions

### **1. *Related Entities of the Platform Operator and the Seller definition***

**Can an Entity related to the Platform Operator be a Seller on a Platform made available by the Platform Operator?**

Yes, an Entity related to the Platform Operator can be a Seller on a Platform made available by the Platform Operator.

### **2. *Reporting Platform Operator acting as counterparty and the Platform definition***

**In June 2021, the OECD published interpretative guidance to clarify that a business that is the only seller on a website through which it sells its goods is not a Platform for the purpose of subparagraph A(1) of Section I. Does the same guidance also apply to other Relevant Activities, namely Personal Services and the rental of immovable property and means of transportation?**

Yes, the 2021 guidance applies mutatis mutandis to both goods and services. In both cases, a determination will need to be made as to whether the Platform allocates opportunities for Sellers to provide Relevant Services/Activities to users. In this respect, it is not relevant what type of Relevant Service/Activity is being facilitated by the Reporting Platform Operator.

### **3. *Listing or advertising of Relevant Services/Activities combined with other functionality and the Platform definition***

**Can software that facilitates the listing or advertising of Relevant Services/Activities and that also provides a chat function or a rating system of sellers and users fall in scope of the exclusion**

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<sup>1</sup> Unless otherwise specified, these FAQs apply with respect to both the original form of the Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy, as well as to the extended scope of such Model Rules via the optional module to cover the sale of goods and rental of means of transportation.

## **in respect of software that exclusively allows the listing or advertising of Relevant Services/Activities?**

No, software that in addition to facilitating the listing or advertising of Relevant Services/Activities also provides a chat function or a rating system would not fall in scope of the exclusion in respect of software *exclusively* allowing the listing or advertising of Relevant Services/Activities. However, in order for software to qualify as a Platform for purposes of the Model Rules, it will need to meet three tests. Firstly, it must be accessible by users and allow Sellers to be connected to other users. Secondly, it must facilitate the provision of Relevant Services/Activities and therefore, thirdly, the amount of Consideration for such Relevant Services/Activities must be known or reasonably knowable by the Platform Operator. In light of these criteria, a chat function or a rating system will not by itself change the qualification of a platform as a Platform for purposes of the Model Rules.

### **4. The notion of “software” and the Platform definition**

**Is it necessary for the faithful domestic transposition of the Model Rules that the Platform is equated with software? Specifically, would defining the term “Platform” as “any system based on digital technology allowing Sellers to be connected to other users via the internet by means of software for the purpose of carrying out a Relevant Service/Activity, directly or indirectly, to such users”, result in the same substantive reporting outcomes as the definition of Platform under the Model Rules?**

Under subparagraph A(1) of Section I of the Model Rules, the term “Platform” means any software, including a website or a part thereof and applications, accessible by users and allowing Sellers to be connected to other users for the provision of Relevant Services [or the sale of Goods], directly or indirectly, to such users.

In this respect, although a Platform cannot function in the absence of software allowing users to be connected to other users, it is acknowledged that the architecture supporting a Platform also includes hardware and networking technologies designed to operationalise the Platform’s business model. Regarding the proposed definition, it is considered that it can be read in a consistent manner with and should therefore achieve the same substantive reporting outcomes as the definition of Platform under the Model Rules.

### **5. Free-text messaging and the Platform definition**

**Does the definition of the term “Platform” require that the software allows users to communicate directly with each other, including by freely exchanging unstructured content (for example in written form by means of an integrated chat or email function)?**

Under subparagraph A(1) of Section I of the Model Rules, the term “Platform” means any software, including a website or a part thereof and applications, accessible by users and allowing Sellers to be connected to other users for the provision of Relevant Services [or the sale of Goods], directly or indirectly, to such users. The definition therefore does not require that the software allows users to communicate directly with each other, including by exchanging unstructured content, although such functionality is a feature of many Platforms (see paragraphs 2 through 5 of the commentary to Section I).

### **6. Excluded Platform Operators**

**How should the EUR 1 million monetary threshold be applied to determine whether a Platform Operator is an Excluded Platform Operator for the purposes of subparagraph A(3)(a) of Section I?**

To determine whether a Platform Operator is an Excluded Platform Operator, the EUR 1 million threshold must be applied to the aggregate Consideration paid for the provision of Relevant

Services/Activities that are facilitated by such Platform Operator at the level of the Platform, not the Relevant Services/Activities facilitated by one or more related Platform Operators.

### **7. *Must the payor of Consideration correspond to the user?***

**Must the payor of Consideration in respect of a Relevant Service/Activity correspond to the user to whom the Relevant Service/Activity is provided?**

It is not required that the user to whom the Relevant Services/Activities are provided to also pays the Consideration in respect of such transaction, whereby the definition of Consideration only requires that it is paid to the Seller in connection with the Relevant Service/Activity.

### **8. *Circumstances under which Consideration is considered to be known or reasonably knowable***

**Under which circumstances should Consideration be considered known or reasonably knowable by the Reporting Platform Operator?**

The Model Rules work on the premise that Consideration is only to be reported if it is known by the Reporting Platform Operator. Consequently, amounts that are not known and cannot be reasonably knowable to the Reporting Platform Operator, in light of its business model, would not be treated as Consideration for the purposes of subparagraph A(6) of Section I. In this respect, the notion of “reasonably knowable” was introduced to avoid circumvention of the Model Rules in instances where the information can be readily known by the Reporting Platform Operator.

Paragraph 40 of the Commentary to Section I illustrates that circumstances where amounts paid or credited to a Seller in connection with Relevant Services/Activities are reasonably knowable by a Reporting Platform Operator include those where the Reporting Platform Operator withholds or receives a fee, commission, or taxes set in reference to the amounts paid by users in respect of Relevant Services.

However, there are other scenarios where Consideration would be reasonably knowable to the Reporting Platform Operator. For example, the Consideration would be reasonably knowable where the Reporting Platform Operator assumes contractual obligations in respect of the provision of the Relevant Service/Activity giving rise to the Consideration vis-à-vis a particular user. This would, for example, include instances where the Reporting Platform Operator commits to providing a refund or other forms of buyer protection in respect of the Relevant Service/Activity. Similarly, the Consideration would also be reasonably knowable where the Platform provides a functionality which declares or communicates to the user and Seller the terms of the agreement in respect of the Relevant Services/Activities, including the amount of the underlying Consideration.

In each case, the test to be applied is whether the business model of the Platform is such that it provides visibility over the Consideration to the Reporting Platform Operator. At the same time, there is no expectation that the Reporting Platform Operator puts in place additional procedures to gain access to information on the consideration where it is not otherwise known or reasonably knowable.

### **9. *The timing of knowledge in respect of Consideration***

**Must consideration be known by the Reporting Platform Operator at the time the underlying Relevant Service/Activity is provided in order to be Consideration?**

The Model Rules do not specify that the Consideration must be known by the Platform Operator at the time the underlying Relevant Service/Activity is provided. Indeed, there may be instances where the Reporting Platform Operator only has visibility over the Consideration at the time the pursuant payment is made. Equally, there can be cases where the amount of the Consideration is calculated after the Relevant Services/Activities are provided. The Model Rules were designed to ensure reporting in both

such scenarios and other instances where the Consideration may not be reasonably knowable before or at the time the Relevant Services/Activities are provided.

### ***10. The coverage of intangible assets and goods under the Goods definition***

**Does the definition of Goods under the optional expansion module of the Model Rules cover intangible assets or goods, such as energy rights or vouchers?**

Subparagraph C(10) of Section I (i.e. the definition of Goods within the optional expansion module) defines Goods as any tangible property. Consequently, the sale of intangible assets or goods, such as energy rights or vouchers, would not be captured by the term Goods.

### ***11. The coverage of pre-recorded digital content and pre-scheduled activities under the Personal Services definition***

**Does the definition of Personal Services under the Model Rules cover the provision of non-customised pre-recorded digital content (such as online courses or videos) as well as pre-scheduled group activities (such as language classes or city tours)?**

The definition of Personal Service requires that the service is carried out at the request of a user, which implies that the service is, at least to some extent, adapted to the specific requirements of such user. Giving access to non-customised pre-recorded digital content (such as online courses, videos or music) is not “time or task-based work performed by one or more individuals at the request of a user” and would therefore not be considered a Personal Service.

Similarly, as outlined in the paragraph 17 of the commentary to Section I, publicly-accessible transportation services operated in accordance with a predetermined timetable, such as coach, train and airplane services also do not constitute a Personal Service. The same conclusion would also extend to other services that operate according to a predetermined timetable, independent from the request of one or more users, including pre-scheduled group activities such as language classes or city tours.

### ***12. The coverage of leasing and usufruct under the rental of immovable property***

**Does the rental of immovable property cover leasing and usufruct?**

Yes, paragraph 16 of the Commentary to Section I clarifies that Relevant Services include both short and long-term rentals of immovable property, irrespective of the nature of the rights (freehold, leasehold, rental, usufruct, or other).

## **Section II: Due diligence procedures**

### ***1. Change of Primary Address during Reportable Period***

**How should a change of a Seller’s Primary Address during the Reportable Period be treated for reporting purposes? Is it possible to report on the basis of two separate Primary Addresses?**

Unless relying upon a Government Verification Service to confirm the Seller’s identity and tax residence, the Reporting Platform Operator must consider the Seller resident in the jurisdiction of the Seller’s Primary Address (as described in subparagraph D(1) of Section II).

In this respect, the Model Rules do not foresee the possibility to report more than one Primary Address. Paragraph 35 of the Commentary to Section II provides, however, that in case an information item is to be found not or no longer reliable, the information will need to be obtained afresh and verified. This would include instances where the Seller provides to the Reporting Platform Operator a new Primary Address before 31 December of the Reportable Period (i.e. the date by which a Reporting Platform Operator must ensure that it has completed the full set of due diligence procedures with respect to a

Seller), whereby in such instances reporting should take place on the basis of such new Primary Address.

## **2. Reporting on the basis of the Seller's tax residence, where different from the Primary Address jurisdiction**

**Do the Model Rules foresee the option for Reporting Platform Operators to also report on the basis of the Seller's tax residence jurisdiction, if known and where different from the jurisdiction of the Seller's Primary Address?**

No, the information is to be reported on the basis of the jurisdiction of the Primary Address of the Seller. Such information may only be relied upon once confirmed in application of paragraph C of Section II.

## **Section III: Reporting requirements**

### **1. The treatment of refunds and cancellations for reporting purposes**

**Should refunds or cancellations be deducted from the amount of Consideration reported in respect of a Reportable Seller? How should a refund in respect of Consideration paid or credited in a previous Reportable Period be treated?**

Yes, the amount of Consideration to be reported should be the net amount of Consideration that is received by the Seller. As such, refunds should be deducted from the amount of Consideration. Where a refund is received in respect of Consideration paid or credited in a previous Reportable Period (i.e. after the reporting deadline in respect of such period), paragraph 3 of the Commentary to Section III provides that it is expected that the Reporting Platform Operator submits a corrected report, reflecting any relevant changes in relation to the Consideration paid or credited to the affected Reportable Sellers.

### **2. Valuation methods in respect of Consideration**

**What valuation method should be applied in respect of Consideration that is paid or credited to a Seller in any form other than fiat currency?**

The Model Rules do not prescribe a specific methodology for valuing the Consideration received by the Seller, and leave the decision in this respect to the Reporting Platform Operator, provided that the methodology is applied in a consistent manner.

### **3. Reporting in respect of Relevant Activities and underlying Consideration straddling two Reportable Periods**

**When should Consideration be reported in instances where it is paid or credited to the Seller in a Reportable Period subsequent to the one during which the corresponding Relevant Services/Activities are provided?**

Under Section III, Consideration must be reported in respect of the Reportable Period during which it was paid or credited, rather than the Reportable Period during which the corresponding Relevant Services/Activities were provided. Notwithstanding, a Reporting Platform Operator may complete the due diligence procedures under Section II in respect of Active Sellers who have not been paid or credited Consideration during the Reportable Period.

### **4. Reporting in respect of mixed transactions involving both Relevant Services and sales of Goods**

**How should Reporting Platform Operators report in respect of a mixed transaction involving both Relevant Services and sales of Goods?**

Paragraphs 24-30 of the Commentary to Section I provide guidance on the treatment of a mixed transaction for reporting purposes. In this respect, pursuant to paragraphs 26 and 27, if a transaction involves elements of both Relevant Services and sales of goods, and both elements can be split or identified by the Reporting Platform Operator, both elements should be reported upon separately. Where the elements cannot be split or identified, paragraph 28 provides that the entire transaction should be subject to reporting (i.e. as a Relevant Service or, in jurisdictions that implement the expanded scope, as a Relevant Activity).

### ***5. Applying the Property Listing notion***

**How should the Property Listing notion be applied for the purposes of the reporting requirements in respect of the rental of immovable property as well as the exclusion in respect of large commercial providers of hotel accommodation?**

Under the Model Rules, a Property Listing includes all immovable property units located at the same street address and offered for rent on a Platform by the same Seller. In this respect, paragraph 71 of the commentary to Section I clarifies that separate apartment units rented in a building with a single street address by the same Seller are also treated as a Property Listing. Therefore, where a landlord owns a building complex containing multiple apartments, the building would be treated as a single Property Listing for the purposes of the reporting requirements, whereby the number of days each sub-unit was rented should be aggregated to determine the number of days each Property Listing was rented during the Reportable Period. Similarly, the definition of Excluded Seller is also linked to the definition of Property Listing and the same aggregation rules therefore apply to determine whether a Platform Operator facilitated more than 2,000 Relevant Services for the rental of immovable property in respect of a Property Listing during the Reportable Period (see paragraph 46 of the commentary to Section I).