

Emerging E-Business Models

Indirect Tax Implications

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Overview

- ❑ Background
- ❑ Popular E-Business Models
 - Online Retailing
 - Cloud Computing
 - Online Advertisement
 - Over the Top
- ❑ Key challenges –Taxpayer’s perspective
- ❑ Key challenges –Tax Authority’s perspective
- ❑ Global Developments
- ❑ Policy Options & Way Forward

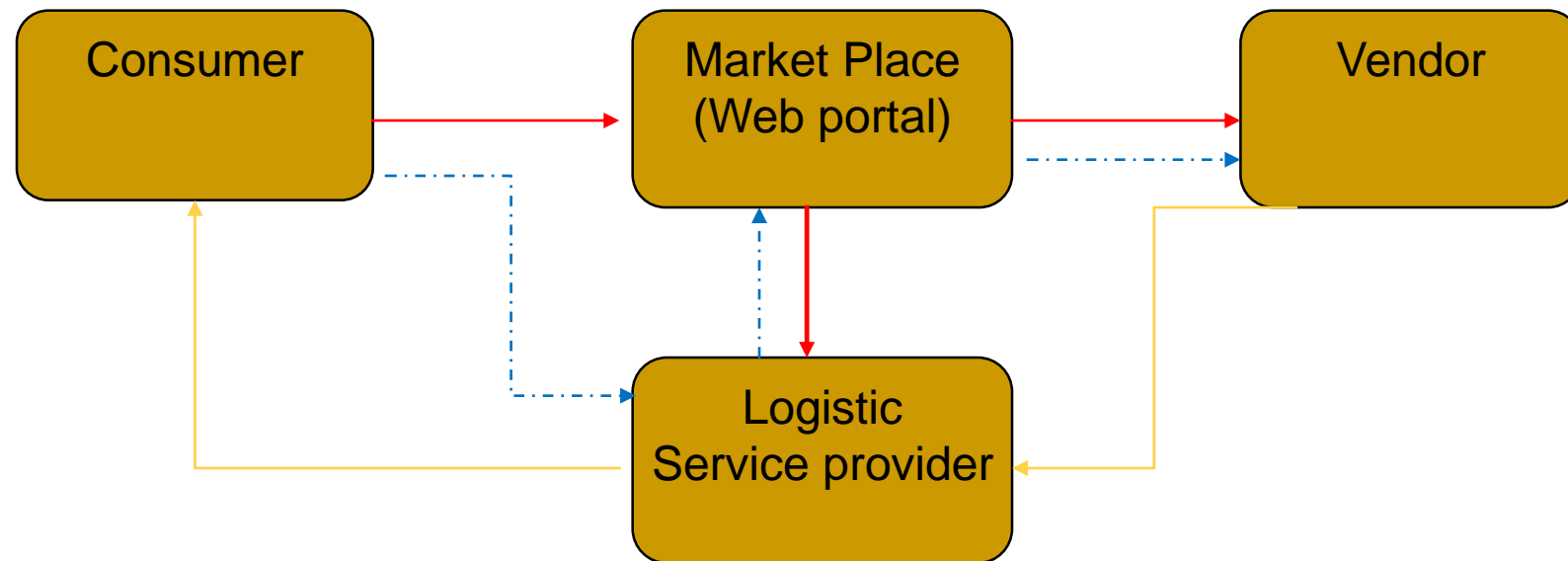
Background

- ❑ Advancement in technology and digitalization of economy
- ❑ Emergence of e-business models
- ❑ Difference between supply of goods and services is blurring
- ❑ Increased cross border trade of intangibles and services
- ❑ Pakistan's Perspective

Online Retailing (e-Tailing)

- Market Place Model
- Retailers / wholesaler selling through web portal
- Manufacturers selling directly to end consumers through web portals

Online retailing-Market Place Model

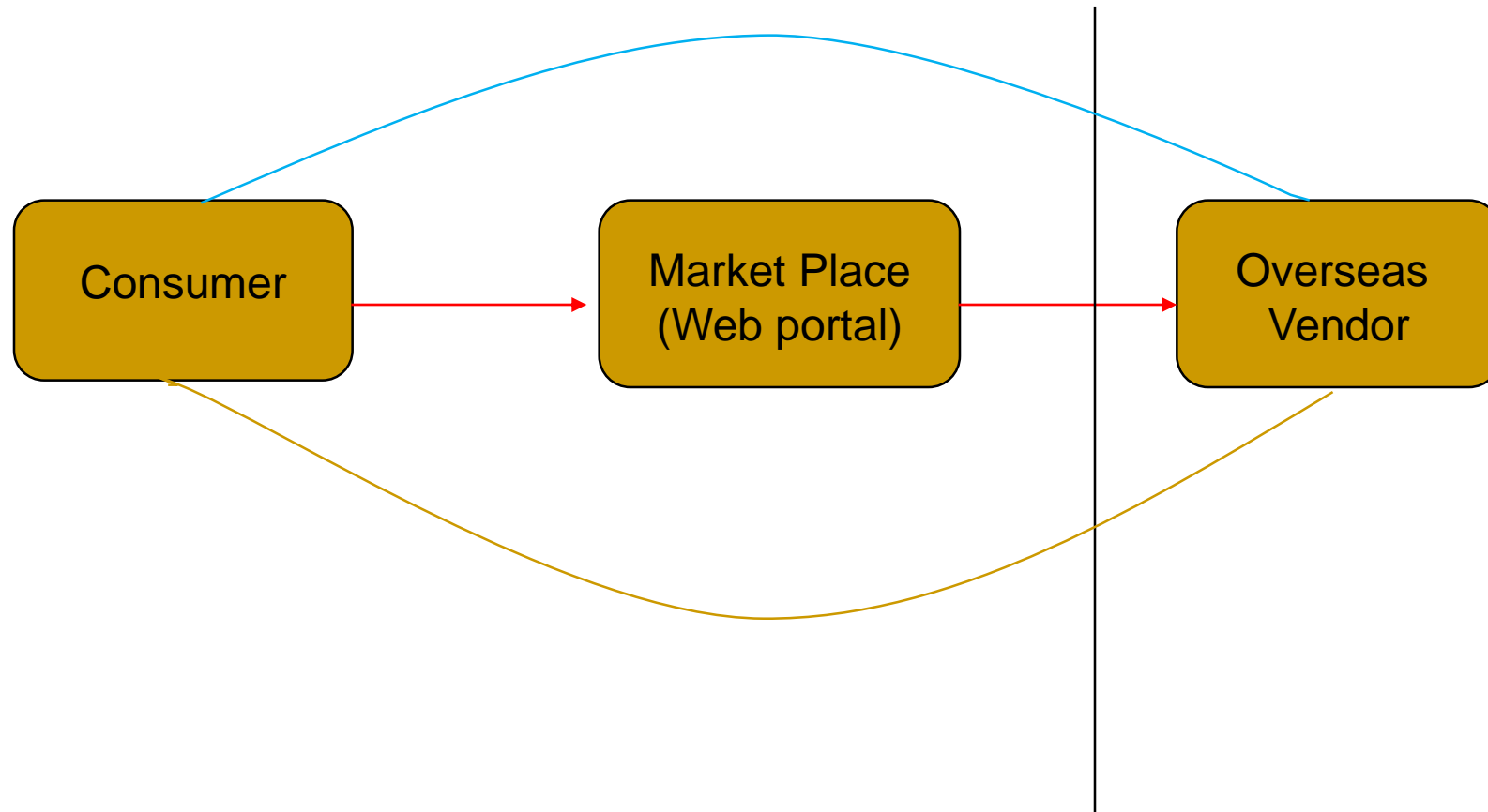


Placement of Order

Settlement of funds

Flow of Goods

Online retailing-Market Place Model



Online Retailing - Indirect Tax Issues

- Place of business identification, obligation of registration on the basis of digital presence
- Trans provincial transactions
- Withholding provisions - reverse flow of funds
- Taxability of combo offers -Supply of goods or service ?

Online Retailing - Indirect Tax Issues

- Record keeping requirements
- Treatment of discounts
- BTC Transactions

Cloud

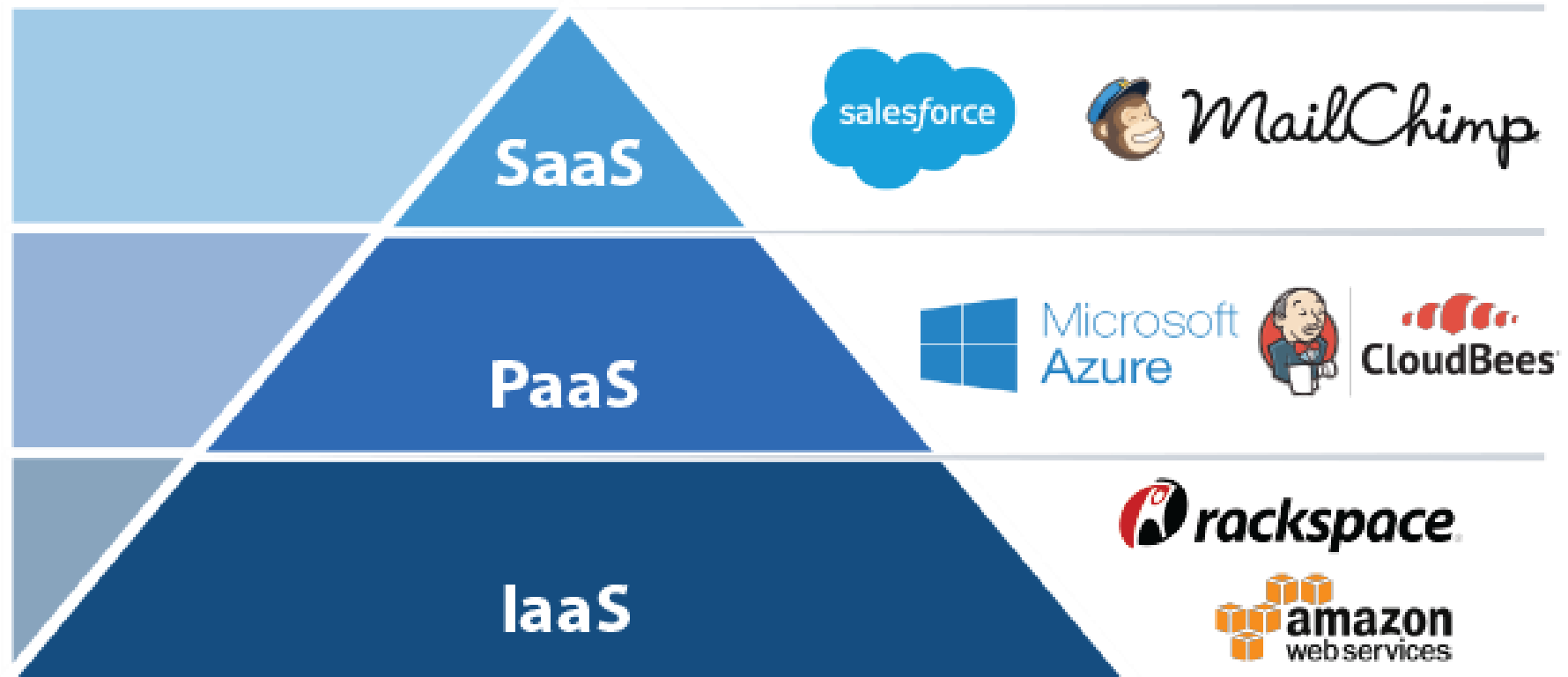
What is Cloud Computing?



Cloud

- ❑ Infrastructure as a Service (IaaS) users can rent IT infrastructure such as data centres and network infrastructure equipment to deploy and run applications or store data.
- ❑ Platform as a Service (PaaS) PaaS enables companies to develop applications by using programming languages and tools. The provider is responsible for maintaining and managing the IaaS on which the PaaS tools are hosted.
- ❑ Software as a Service (SaaS) SaaS is a software model provided by a vendor through an online service. Users do not need to install or maintain software applications on their computers. The software is run on the provider's cloud infrastructure and a user can access it on the web.

Cloud Services



Cloud Locations



Cloud – Indirect Tax Issues

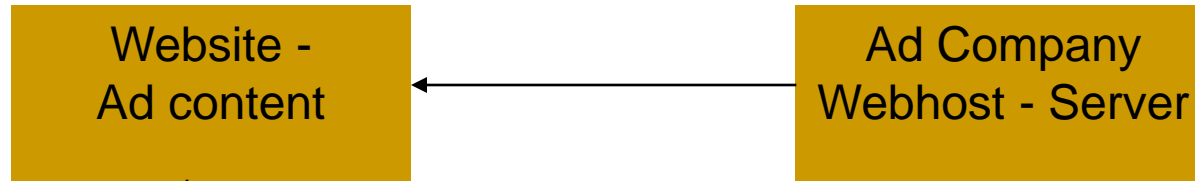
- ❑ Identification of place provision of service.
- ❑ Characterization of transaction as supply of product (good), lease, license / right to use or rendering of service differ from jurisdiction to jurisdiction.
- ❑ For cross border transactions specially B2C transactions, no effective mechanism of sales tax collection exists.
- ❑ If a taxpayer keeps his accounting records on cloud based application, the ability of tax authorities to access (seize) records for appropriate tax assessment.

Cloud – Indirect Tax Issues

- ❑ Reverse charge mechanism- admissibility of input tax for BTB ?
- ❑ Invoicing by non asset based business and treatment of withholding of tax thereon.
- ❑ Ambit of Tariff Heading “Software or IT Based System Development Consultants”.

Online Advertisement

Overseas



Pakistan



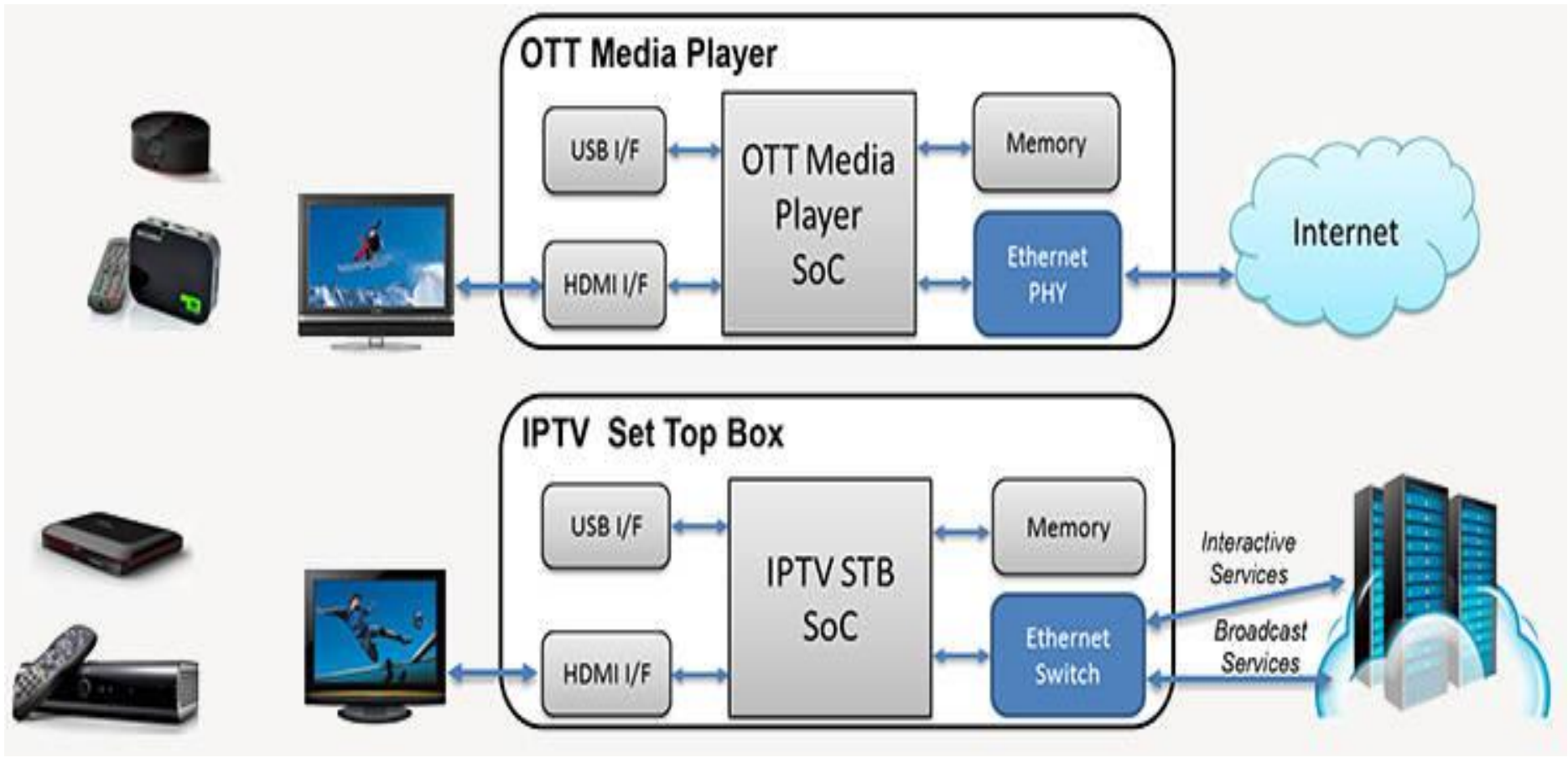
Online Advertisement – Indirect Tax Issues

- ❑ No physical presence of service provider in Pakistan, though economic activity is carried out remotely in Jurisdiction of Pakistan. Registration obligation arises on the basis of digital presence but implementation is a challenge.
- ❑ Service provider is resident or non-resident ?
- ❑ Origin & Termination of Service can be multiple
- ❑ Tax deposited under reverse charge - how to claim input tax?
- ❑ Tax collection from unregistered advertisers.

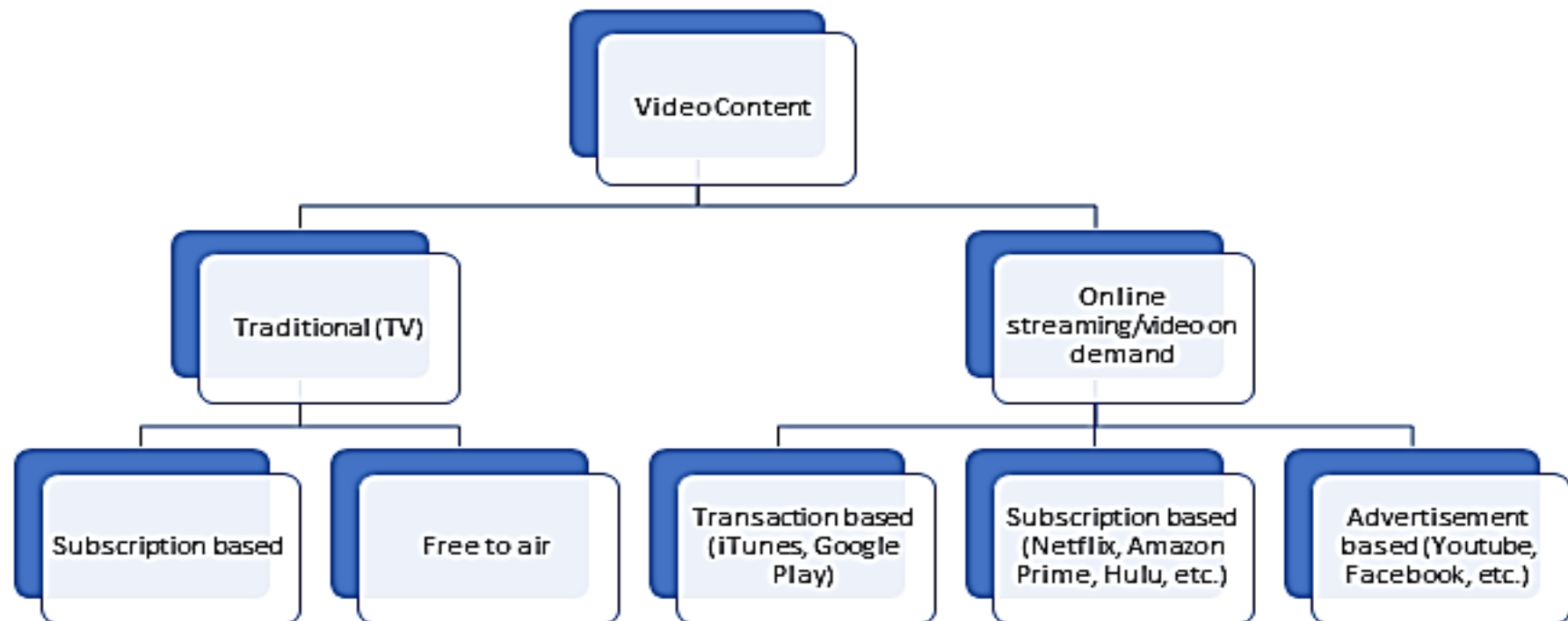
Over The Top (OTT)

- ❑ OTT stands for over the top and refers to video content that is viewed over internet without using the traditional infrastructure of Closed Television Systems.
- ❑ Using OTT services users don't need to subscribe or pay a TV cable company to watch video content as most content is served via internet.

Over The Top (OTT)

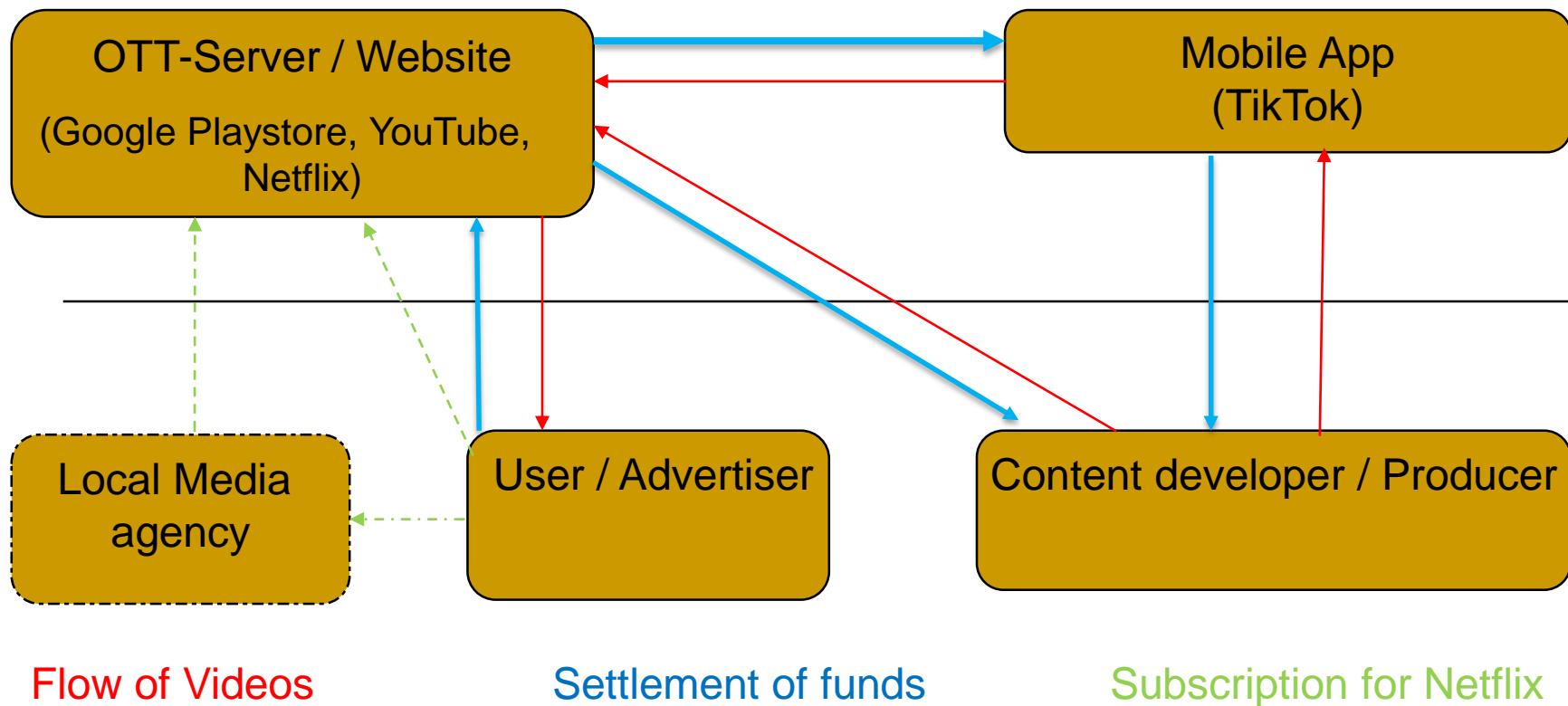


Over The Top (OTT)-Business Model / Types



Source: Televisory's Research

Over The Top (OTT)-Transaction Flow



Over The Top (OTT) – Indirect Tax Issues

- ❑ Identification of service provider in case of sharing of revenue between mobile app owner and platform (like Google Play). Likewise, sharing of revenue between YouTube and Content Producer. Can be categorized as sharing of income or taxable service to one another.
- ❑ Identifying place of provision of service
- ❑ Production House vs. Non Conventional Content Development
- ❑ Transaction flow is also non-conventional
- ❑ Service Tax is applicable on subscription fees to be paid by local company to OTT Foreign Co. on a reverse charge basis.

Over The Top (OTT) – Indirect Tax Issues

- ❑ Levy of Service Tax / Sales Tax on provision of content by content developer to OTT Foreign Company will also have to be evaluated.
- ❑ Tax deposited under reverse charge; claim of input tax
- ❑ Proceeds settled via credit cards prevent tax collection and enforcement.

Online Business Models - Taxpayer's Challenges

- ❑ Tax authorities tend to tax digital services as per provisions and rules framed for conventional business models which, sometimes, even cost survival of business.
- ❑ Potential risk of tax liability in jurisdictions where the taxpayer has no presence; business needs to keep a close track of different countries GST / VAT laws on Digital Services.
- ❑ Compliance costs.
- ❑ Grey Areas in Laws.
- ❑ Non Level Playing Field by default.

Online Business Models – Tax Collector's Challenges

- ❑ Identification of transactions exposed to sales tax
- ❑ Keeping pace with rapid developments in technology
- ❑ Timely amendments in tax laws
- ❑ Lack of appropriate infrastructure for proper enforcement of laws
- ❑ Capacity & Capability issues
- ❑ Challenge to trace cross border service trade specially B2C supplies

Global Developments - Key Approaches

- ❑ OECD Global Forum on VAT & OECD Guidelines.
- ❑ Work of OECD aimed at adopting worldwide uniform approach to avoid double taxation or double non taxation in way that neutrality of VAT / GST for businesses is ensured
- ❑ Consensus on principal that sales tax is a consumption tax; the jurisdiction wherein the services are consumed has the taxing right
- ❑ OECD suggest reverse charge mechanism for B2B supplies with right to claim input tax
- ❑ OECD international VAT / GST guidelines suggest that B2C supplies of digital services should be taxed in jurisdiction wherein the consumer usually reside. Since such consumer supplies are usually of low value and high volume, therefore, overseas supplier should be asked to get registered in the jurisdiction where his significant customer base is located.

Global Developments - Key Approaches

- ❑ OECD Report on Mechanism for effective Collection of VAT / GST when supplier is not located in the jurisdiction

- ❑ Simplified guidelines have been proposed for overseas suppliers':
 - ✓ Registration Procedure
 - ✓ Input tax recovery-refunds
 - ✓ VAT Returns
 - ✓ Payments
 - ✓ Record Keeping
 - ✓ Invoicing
 - ✓ Availability of Information
 - ✓ Use of Third Party Service Providers

- ❑ Around 50+ countries have already implemented laws based on the principles envisaged in OECD guidelines with some variations according to their domestic issues. Examples include EU, India, South Africa, Turkey, Australia, etc.

Policy Options & Way Forward.....

- ❑ Businesses should adopt conservative approach and should be vigilant about legal development around the globe particularly in jurisdictions where their customer base is located.
- ❑ Sales Tax planning needs to be incorporated in overall business strategy.
- ❑ Business associations and tax authorities should sit together to understand the new business models and push governments for amending the laws accordingly to bring clarity regarding sales tax exposure.
- ❑ Role of Digital Platforms & Banks:
 - ✓ *LIVE Data Sharing with Tax Authorities*
 - ✓ *Collection / Liability Models*
 - ✓ *Joint & Several Liability*
 - ✓ *Banks as WHT Agent*

Policy Options & Way Forward.....

- Cyber fencing for curbing tax evasion.
- Exchange of information between countries.
- Level Playing Field.

THANK
YOU