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10 May 2023

THE INTERGOVERNMENTAL ORGANISATION OF THE SOUTH

UNITED NATIONS
UNCTAD

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Intergovernmental Group of Experts on E-commerce and the Digital Economy:

Prerequisites for a more equitable distribution of gains from the digital economy

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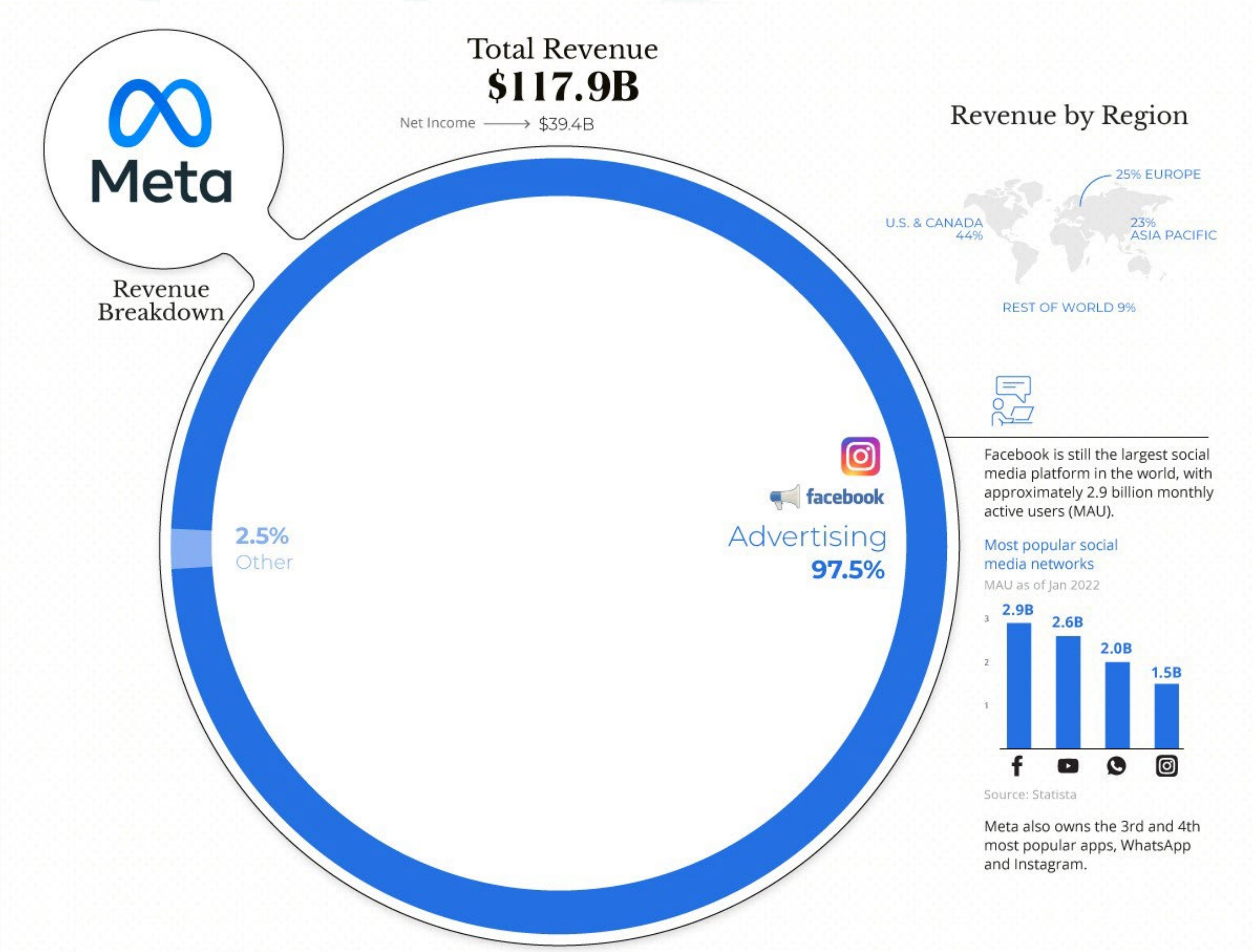
Tech Giants – How Do They Make Money?



Source: Visual Capitalist (2022)

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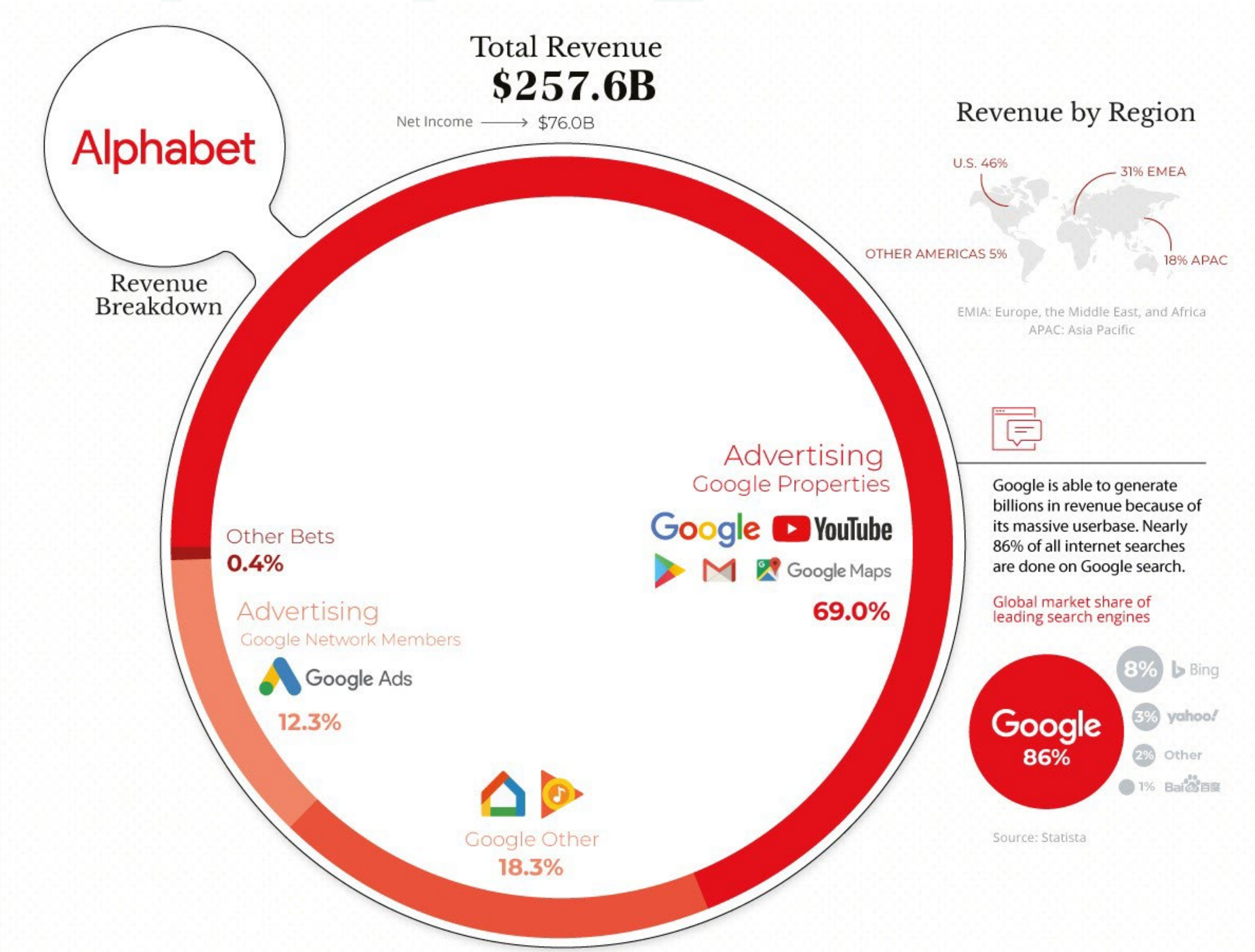

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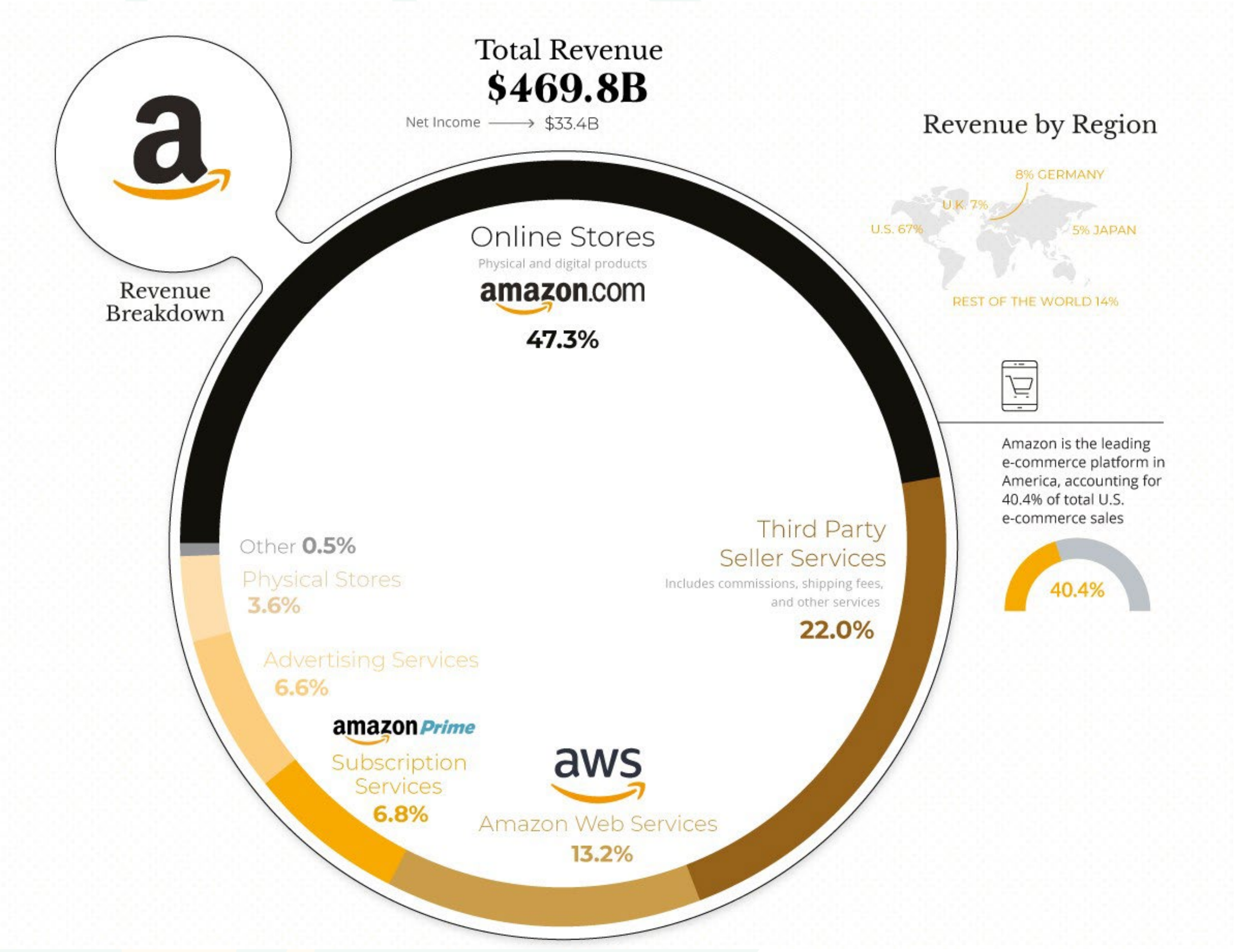

Source: Visual Capitalist (2022)

Digital Economy – Three Key Characteristics

- *Scale without mass*
  - Sell in more countries without needing more assets
- *Heavy reliance on intangible assets*
  - Rather than land, factories, etc relies on software, algorithms and other intellectual property
- *Data and user participation*
  - «Users» provide value (what would Instagram be if nobody posted photos?)
- (OECD Tax Challenges Arising from Digitalisation – Interim Report 2018)

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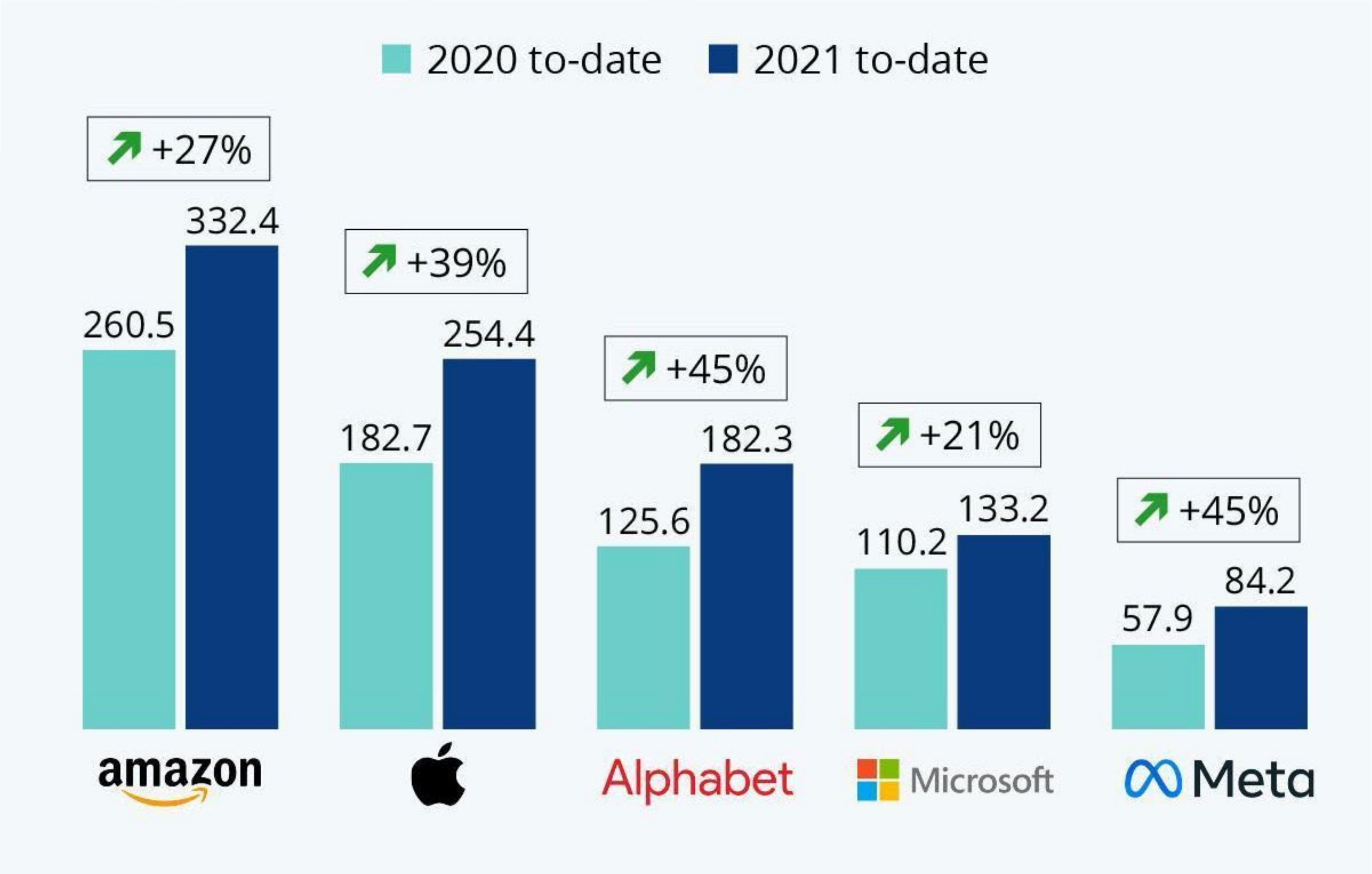
Tech Giants – Richer Than Countries



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Tech Giants – Richer Than Countries

Company	Revenues (USD billion in 2020)	Rank of economy if it were a country
GAFAM (Google, Apple, Facebook, Amazon, Microsoft)	736.9	18
Amazon	260	42
Apple	183	51
Alphabet	126	57
Microsoft	110	59
Meta/Facebook	58	79

Source: Chowdhary and Diasso (South Centre, 2022)

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Tech Giants – Low Effective Tax Rates

Silicon Six: from revenue to cash tax paid (2011-20)

	Amazon	Apple	Facebook	Google	Microsoft	Netflix	Total
Revenue ($bn)	$1,592.9	$2,097.3	$327.8	$962.7	$963.0	$104.9	**$6,048.8**
Booked profit ($bn)	$60.5	$597.3	$132.5	$253.5	$306.5	$8.2	**$1,358.7**
Current tax provision ($bn)	$10.7	$143.5	$30.3	$49.8	$79.1	$1.4	**$315.1**
Current tax provision / booked profit	17.7%	24.0%	22.9%	19.6%	25.8%	17.9%	**23.2%**
Cash income tax paid ($bn)	$5.9	$100.6	$16.8	$38.9	$55.3	$1.1	**$218.7**
Cash tax paid / booked profit	9.8%	16.8%	12.7%	15.4%	18.0%	13.9%	**16.1%**
Cash tax paid / revenue	0.4%	4.8%	5.1%	4.0%	5.7%	1.1%	**3.6%**

Source: Fair Tax Mark (2019)

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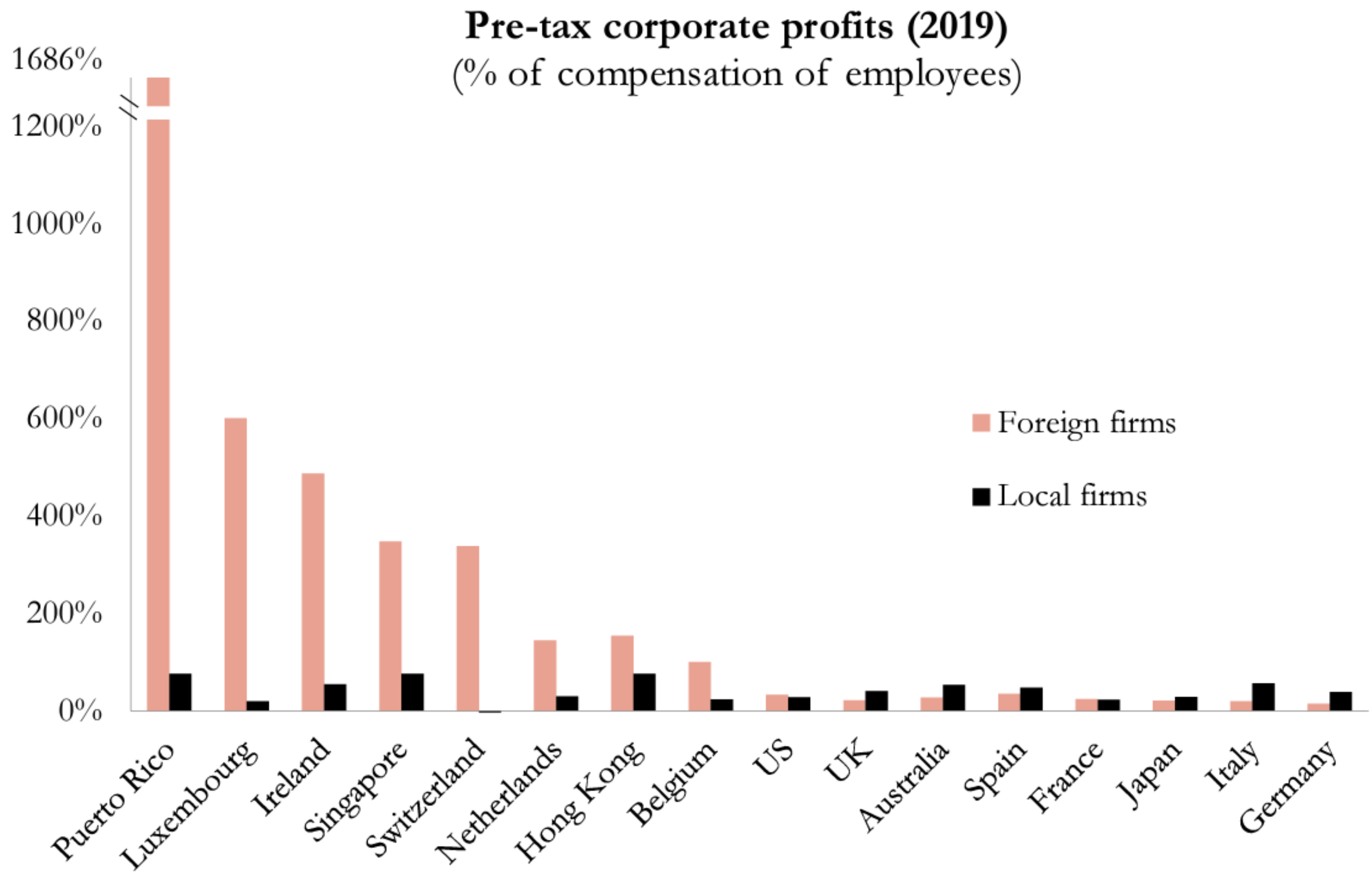
MNE Profits Often Stashed in Tax Havens



Source: [Wier and Zucman](#)(UNU WIDER, 2022)

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Key Takeaways Re: Equitable Distribution of Gains - I

- ✓**Tax Link**
- ✓**Profits from Digitalized Economy Not Being Paid To ‘Source’ (mainly developing) Countries**
- ✓**Effective Taxation → Equitable Distribution of Gains**

- ✓«Currently, there is a mismatch between where value is extracted and where profits are taxed. Users in developing countries significantly contribute to the generation of value by global digital platforms and some state that, therefore, authorities in these countries should have the right to tax platforms accordingly»
- ✓*- How to make data work for the 2030 Agenda for Sustainable Development (para 29, UNCTAD 2023)*

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Key Takeaways Re: Equitable Distribution of Gains - II

- ✓ **Competition Link**
- ✓ Untaxed Profits Due to Tax Avoidance → More Money in the Companies' 'War Chests'
- ✓ Bigger War Chest → More Monopoly Tactics (Predatory Pricing, Mergers and Acquisitions, etc)
- ✓ **Tax Avoidance Fuels Monopolies and Oligopolies**
- ✓ **Clear Link Between Tax and Competition Policy**
- ✓ **Corollary: Effective Taxation Contributes to Fair Competition**

- ✓ «competition policy adapted to the digital economy represents an important prerequisite for a more equitable distribution of gains» - *How to make data work for the 2030 Agenda for Sustainable Development (para 28, UNCTAD 2023)*

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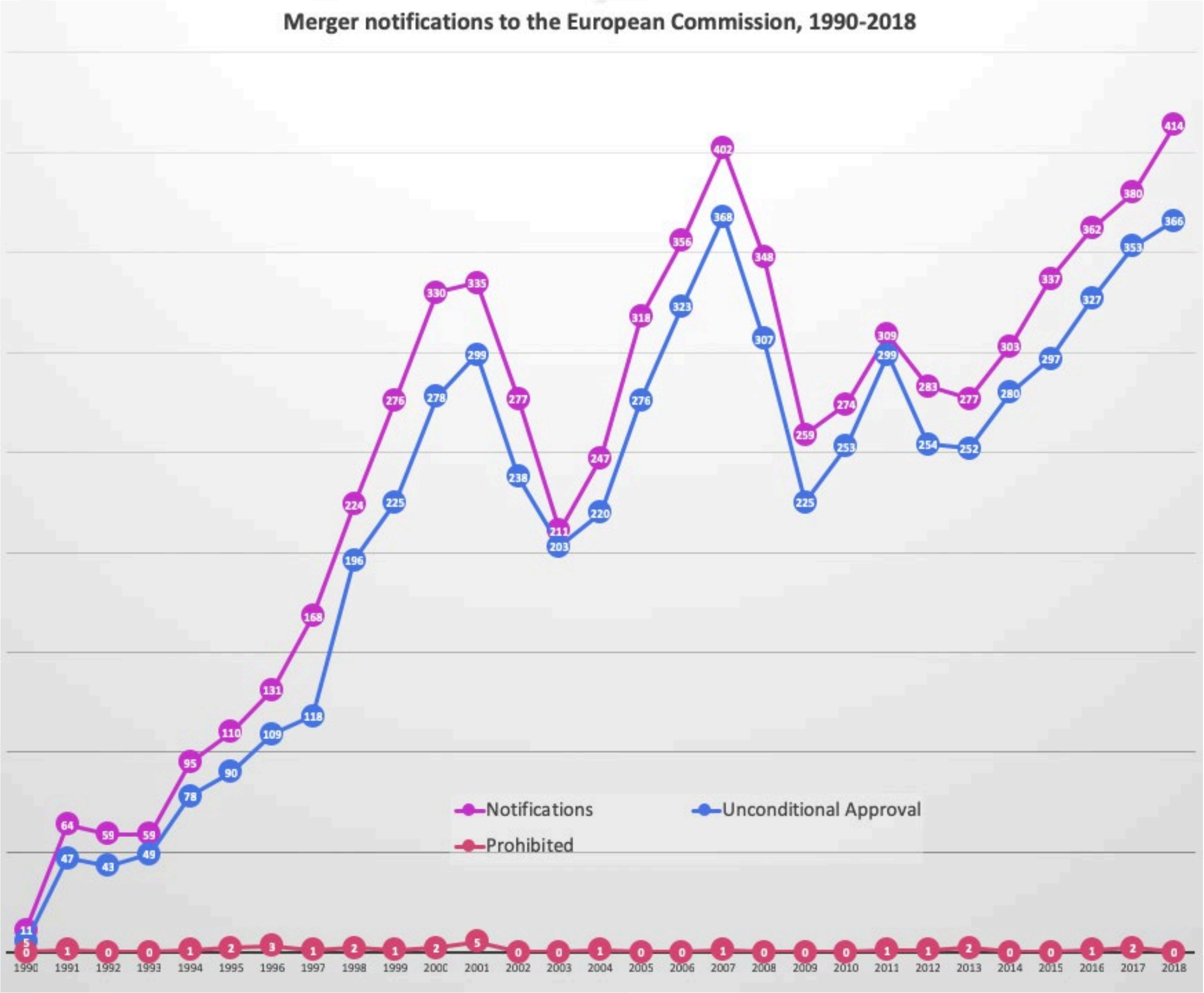
Rising Trend of ‘Market Consolidation’ (Monopolies)



Source: Nick Shaxson (Tax Justice Network, 2022)

Taxing the Digitalized Economy: Limits of Existing International Tax Rules

- Under existing international tax rules, taxing Foreign Companies requires them to have a physical presence (branch, subsidiary, office, factory, etc) in your country
- Not always applicable for digitalized businesses
- Even when physical presence (nexus) test met, attributing profits to local entity very difficult when intangible assets are involved
- Tech Giants experts at using tax havens to shift profits

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Solutions – OECD – Amount A of Pillar One

Key Characteristics:

Multilateral – Country will have to sign a Convention – first time in history of international taxation that taxing rights allocated multilaterally

Applies only to super-rich and profitable companies (EUR 20 billion annual turnover, 10% profit margin)

Taxes MNEs on global profits

Allocates 25% of residual profits to market jurisdictions

Residual Profits = profits exceeding 10% of revenue

Country agreeing to it cannot tax any out of scope digital companies

Re-allocation of taxing rights so will only work if US, EU and other countries where MNEs are headquartered agree to give up their taxing rights (which seems unlikely)

Source: South Centre (2022)

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Solutions – United Nations – Article 12B of UN Model Tax Convention

Key Characteristics:

Article 12B taxes Income From Automated Digital Services

ADS defined as services with 'minimal human involvement'

Eg – Online advertising, search engines, intermediation platform services, etc

Bilateral – To be negotiated between countries who have a tax treaty

No threshold; even a single transaction taxable if it qualifies as ADS

Two options –

- Gross Method: Fixed rate on local turnover (eg 3-4%)
- Net Method: Methodology for calculating Net Profits which are then taxed at domestic rate

Source: South Centre (2021)

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Solutions – Unilateral or National Measures

Digital Service Taxes

Significant Economic Presence

Equalization Levy

Source: South Centre (2020)

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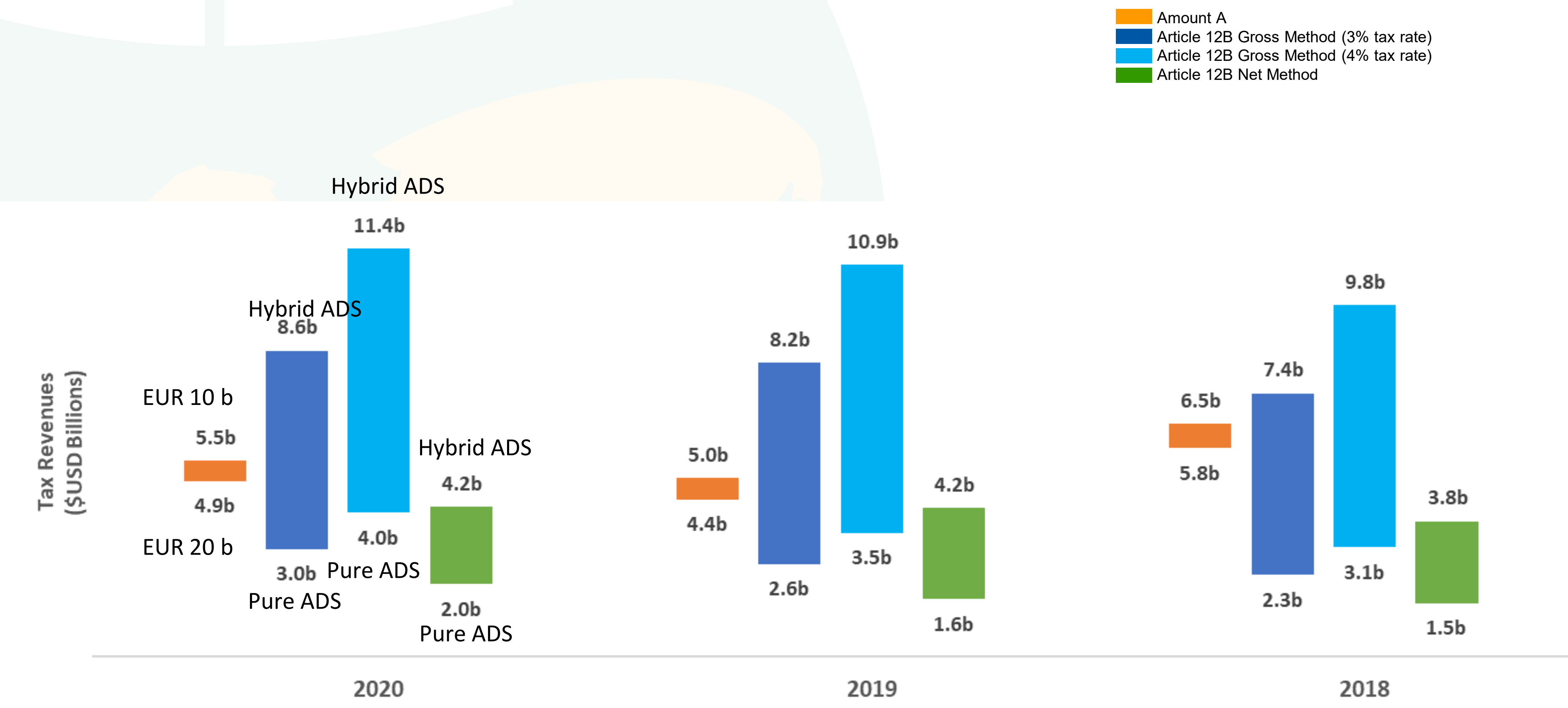
Amount A vs. Article 12B for the 54 South Centre Member States (2018 to 2020)



Source: South Centre (2022)

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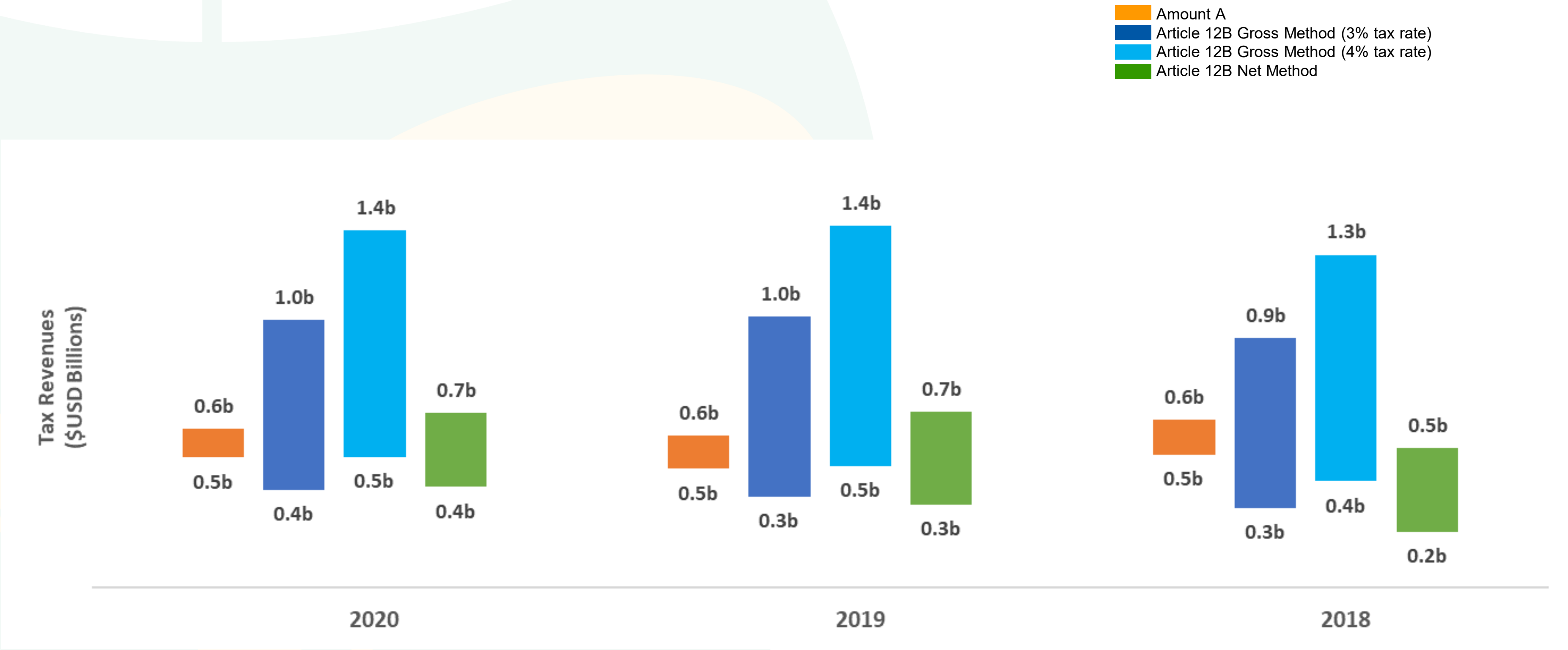
Amount A vs. Article 12B for the 54 African Union Member States (2018 to 2020)



Source: South Centre (2022)

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Final Takeaways

UN Solution Gives Up to Three Times More Revenue to Developing Countries than OECD Solution

But UN Solution Requires Bilateral Negotiations; Time and Resource Intensive

UN Tax Committee Creating UN ‘Multilateral Instrument’ which can update multiple bilateral tax treaties simultaneously

Support of Developing Countries Required for This Effort

Next session of UN Tax Committee: October 2023, Geneva

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Final Takeaways - II

Countries can also initiate national measures like Digital Services Taxes or Significant Economic Presence

Most countries that have implemented DSTs collected more revenue than expected

Eg – Kenya

Expected to collect $1 million from DST in 2022

Collected $2 million (!)

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THANK YOU

Please contact us for more information at:

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