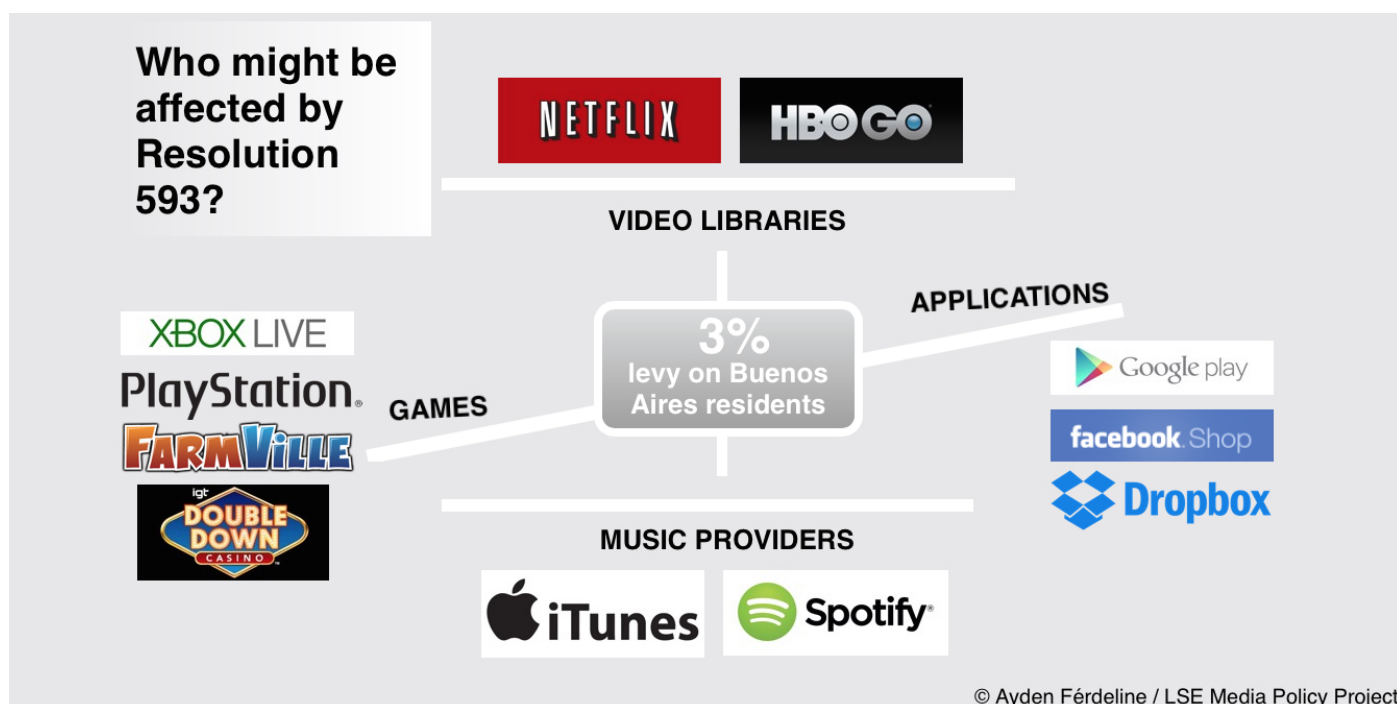


Argentina's "Netflix tax" isn't surprising



LSE MSc student *Ayden Fabien Férdeline* looks at Argentina's new levy on payments to foreign providers of streaming services and argues that the South American country is not trying to curtail media dissent, but is trying to keep foreign currency from heading out of the country.

As of 1 November, debit and credit card issuers in Buenos Aires are required to withhold three percent of all payments remitted to providers of foreign streaming services. The law, which has come to be dubbed "**the Netflix tax**" by local media, is ambiguous in its wording, and on [Twitter](#)[1] there has been speculation that other online services operating in Argentina, such as iTunes, Spotify, the Facebook store, as well as the Xbox and Playstation marketplaces, could be affected.



The levy only applies to Netflix's 314,000 customers in Buenos Aires (the company has 580,000 subscribers in Argentina), because the streaming service does not have a brick-and-mortar presence in the city. City legislators have said that the law will make it easier for local streaming services that pay taxes in Argentina to compete in the marketplace.

The tax has proven to be overwhelmingly unpopular, with President Cristina Fernández de Kirchner **speaking out against it** [in Spanish] and the Mayor of Buenos Aires, Mauricio Macri, conceding that he should have "**questioned**" [in Spanish] the logistics of implementing the measure more before it was adopted.

In a country where inflation is running at **40 percent**, price hikes are a sensitive issue, so a revision was made to the law last week to clarify that foreign streaming services must absorb the cost of the levy themselves and cannot pass the cost on to consumers "directly or indirectly". (The constitutionality of the law itself remains questionable, as section 17 of the Argentine constitution says "**only Congress levies the taxes**", so passing this law does appear to exceed the authority of Buenos Aires legislators.)



The law comes at a time when Argentina finds itself in a precarious financial position. Three months ago, the country defaulted on its national debt for the **seventh time** since 1980, arguing in U.S. courts that were it to repay in full its obligations to creditors, this would trigger **new obligations** to some bondholders that in turn would collapse Latin America's third-largest economy. While private businesses are doing okay, the government itself is struggling to keep money rolling in. Other recently adopted laws attest to this, such as a **35% levy on foreign credit card transactions** over US\$25, intended to help prop up dwindling foreign currency reserves, and **raising interbank lending rates**, aimed at forcing banks to sell assets locally.

It also comes at a time when media outlets in Argentina have faced unprecedented political pressure. The Committee to Protect Journalists said in February that the Kirchner administration was "**continu[ing] with its policy of punishing critical media outlets and rewarding favorable ones with official advertising**". Grupo Clarín, a London-listed media conglomerate that publishes Argentina's largest-circulation newspaper, transmits the top-rated cable television network, and owns the internet service provider with the country's most subscribers, has regularly been accused of trying to overthrow the government, and the Kirchner administration responded by passing legislation to **force the company to divest of some of its most profitable business units**. (The country's media regulator declined a request this month by Clarín to voluntarily adapt to the new anti-trust rules, and said it would **forcibly separate the company**.)

There have also been signs that online free expression is at risk. Last year, injunctions were issued against Google and Yahoo for publishing images of actress Paola Krum that a court described as "**morally damaging**". The search engines were ordered to delete the links to these images from their indexes. This came after a similar case in 2012 where Google was ordered to delete links and to **pay compensation** to model Barbara Lorenzo for publishing photographs of her without permission. Now, Google is being sued by model Belén Rodríguez who claims her name was associated with pornographic links and that this damaged her reputation (the Argentine Supreme Court is yet to deliver its verdict). The trend towards fining search engines for the content found by their algorithms is a worrying one that has the potential to result in self-censorship.

Given, then, the country's march for content control, it's easy to understand why the new Netflix tax could be seen as the latest in a string of attacks on media freedom. But the situation is different on this occasion. **Resolution 593** [in Spanish] – the law imposing a tax on foreign providers of subscription services – exists because Argentina's limited foreign currency reserves are being drained every time a local credit card is charged and funds are remitted abroad. Clarín announced 48 hours before the levy was passed that it was debuting its own streaming video service, Cablevisión Play, and, as an organisation with a brick-and-mortar presence in the country, it is required to pay taxes in Argentina. In this respect, the legislation improves market conditions for Clarín because it requires all video library services servicing customers in Buenos Aires to pay taxes.

On this occasion, Argentina isn't trying to stifle media freedoms; it's just looking to tax a foreign entity that has a sizable number of local customers all paying for their monthly subscriptions in a foreign currency. With foreign currency reserves now approaching their lowest levels in the country's history, Argentina can scarcely afford to let another peso leave the public purse. It's just unfortunate that Buenos Aires legislators had to pass this law 48 hours after Clarín launched its Netflix competitor – and a few weeks after the CEO of Clarín, Héctor Magnetto, suggested the Buenos Aires mayor would make for a **better President** than the country's current leader. That's just the kind of message Mayor Mauricio Macri wouldn't mind circulating ahead of the country's presidential elections in 2015.

[1] This debate is taking place with the hashtag #NoAllImpuestoaNetflix (Don't Tax Netflix).

This article gives the views of the author, and does not represent the position of the LSE Media Policy Project blog nor of the London School of Economics.



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