

# Taxing The Digital Economy Presentation by:

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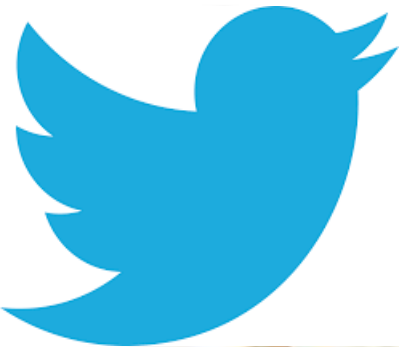
# Digital Disruption



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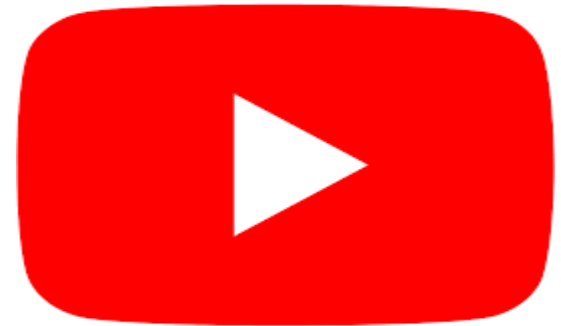
LinkedIn



# Digital Disruption



**NETFLIX**



**VIUSASA**

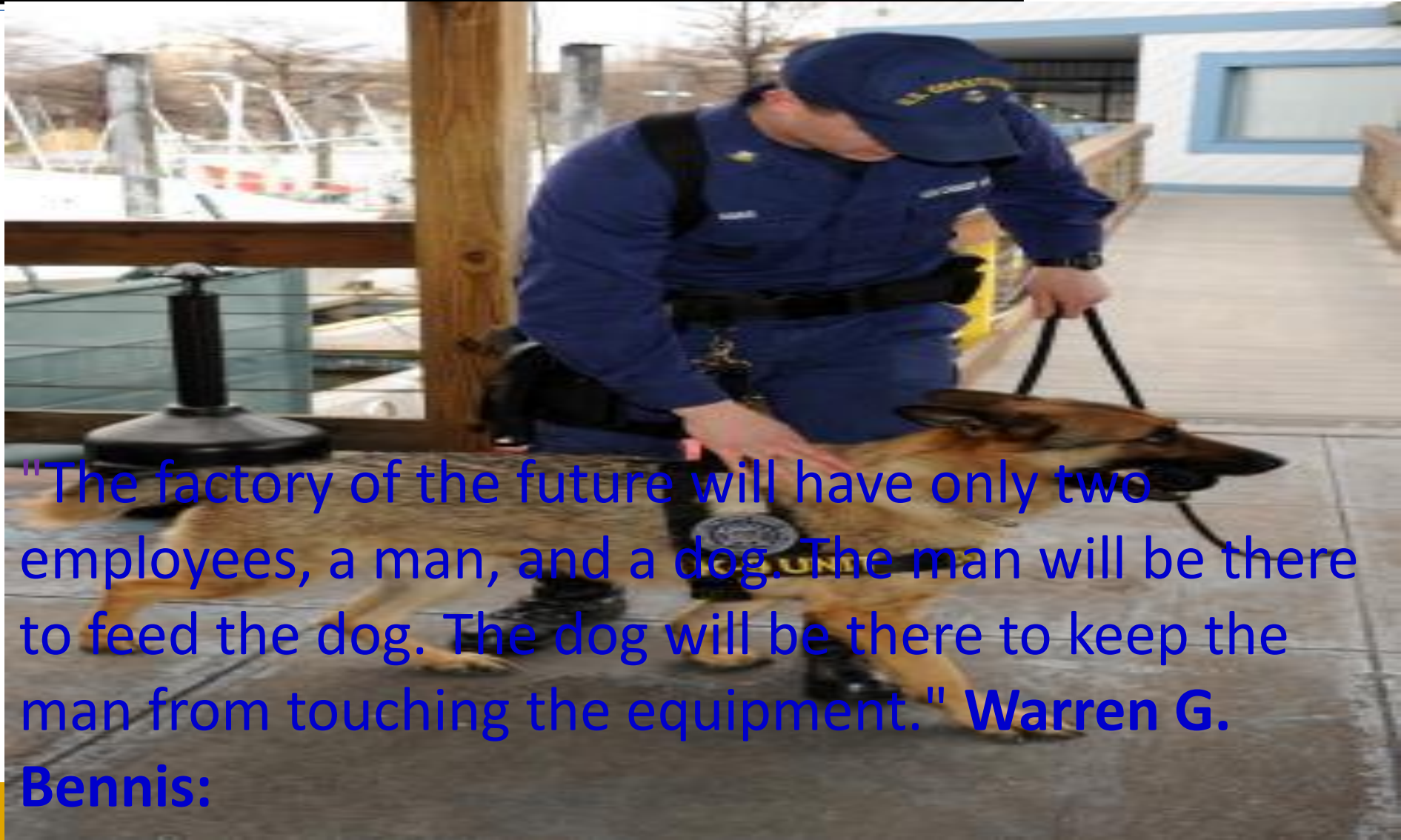


# Digital Disruption



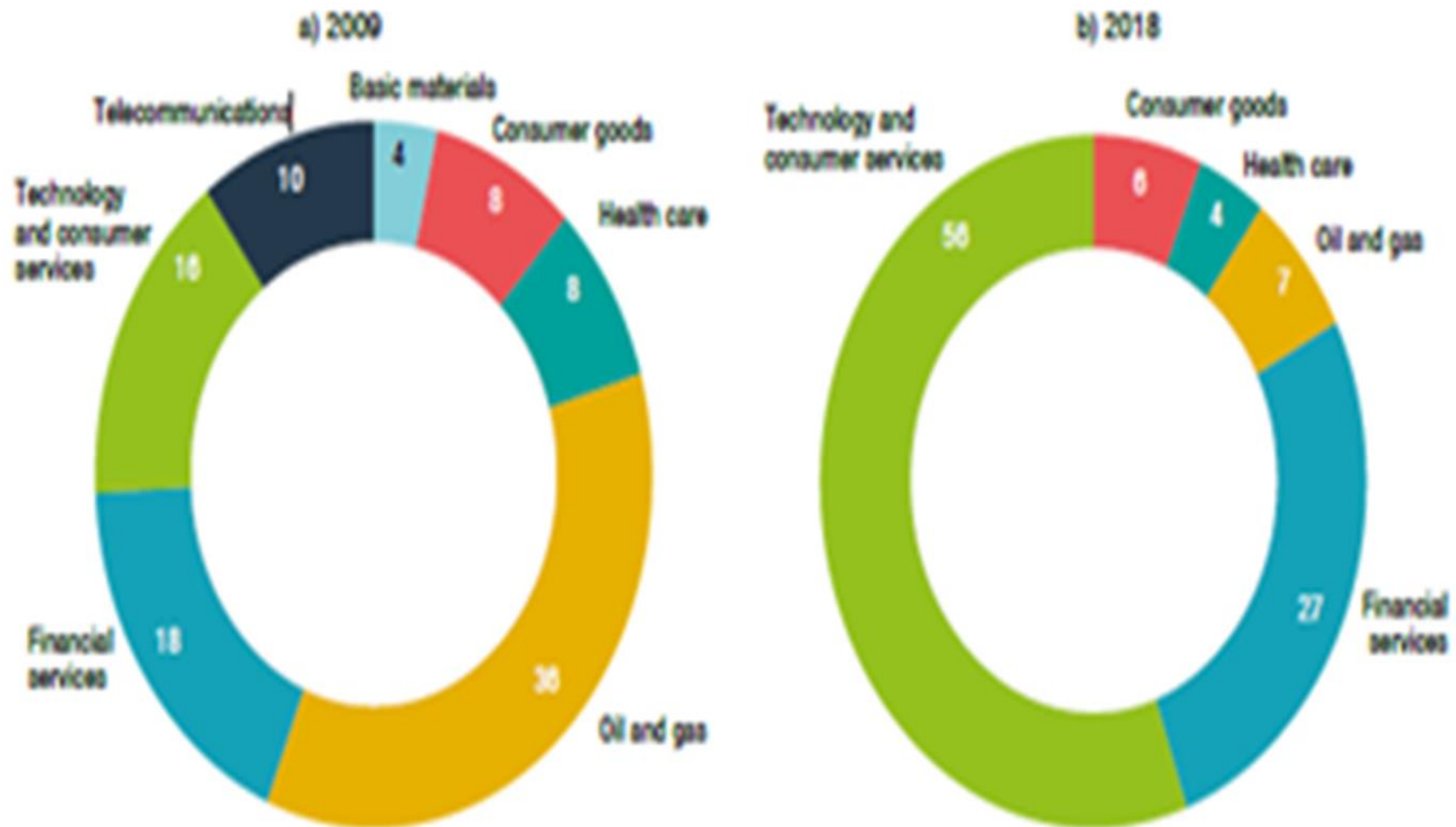


# Digital Disruption



"The factory of the future will have only two employees, a man, and a dog. The man will be there to feed the dog. The dog will be there to keep the man from touching the equipment." **Warren G. Bennis:**

# Growth in Digital Economy



Source: UNCTAD, based on PwC, 2018b.

# Tax compliance by Digital Giants



- Google is registered in Ireland with SPV in Netherlands (double Irish and Dutch sandwich) and Bermuda a tax haven
- 2018 google made \$6.5 Billion in UK but completed the transactions in Dublin Ireland virtually paying nothing in UK

# Digital Giants'



- In 2018 Facebook paid £15.8m in tax in the UK despite collecting a record £1.3bn in British sales.

Globally, Facebook made (£15.3bn) of profit on total sales of \$40bn 2018,

- Global sales to profit ratio = 35%
- British sales to profit ratio = 6%

*Source the Guardian*



# Digital Giants'



**iAvoid**



- Between 2008 and 2015, Apple earned \$305 billion before taxes, and paid a foreign tax rate of only 5.8% during this time

» *Institute of taxation and economic policy*

# Digital Hustlers- Local



- Academic writing- ethical?
- Web and Mobile software development
- Design & Creative Sales and marketing
- Admin support and customer service
- Data entry and analytics
- You-tubers, Bloggers-, product reviews
- > Fin-techs

<the gig economy>

# Features of Digital Econ



- Dematerialization of items traded
- Mobility and connectivity – elimination of distance
- Value creation by customers- esp. generation of content and big data
- Tendency towards monopoly and oligopoly – dominance , Africa is a digital importer
- Invisible trade,
- complex transactions. use of intangibles



# The Challenge that has been



ITA CAP 470; Sec 3(1)

Taxes residents and non residents on income accrued in or derived from Kenya

- Same idea applied in many countries

*Distinction doing business IN Kenya and  
Doing Business WITH Kenya*

# Derived in Kenya



Toyota Kenya  
sells a Car in  
Kenya



Trade In Kenya- Gain  
taxable in Kenya

Toyota Japan Sells  
a Car to a Kenyan  
from Japan



Trade not in  
Kenya- Gain not  
taxable in Kenya

Toyota Motor Corp has made the Item of trade  
available in Kenya through its Subsidiary

# Derived in Kenya!



Where is  
this Trade

**amazon**



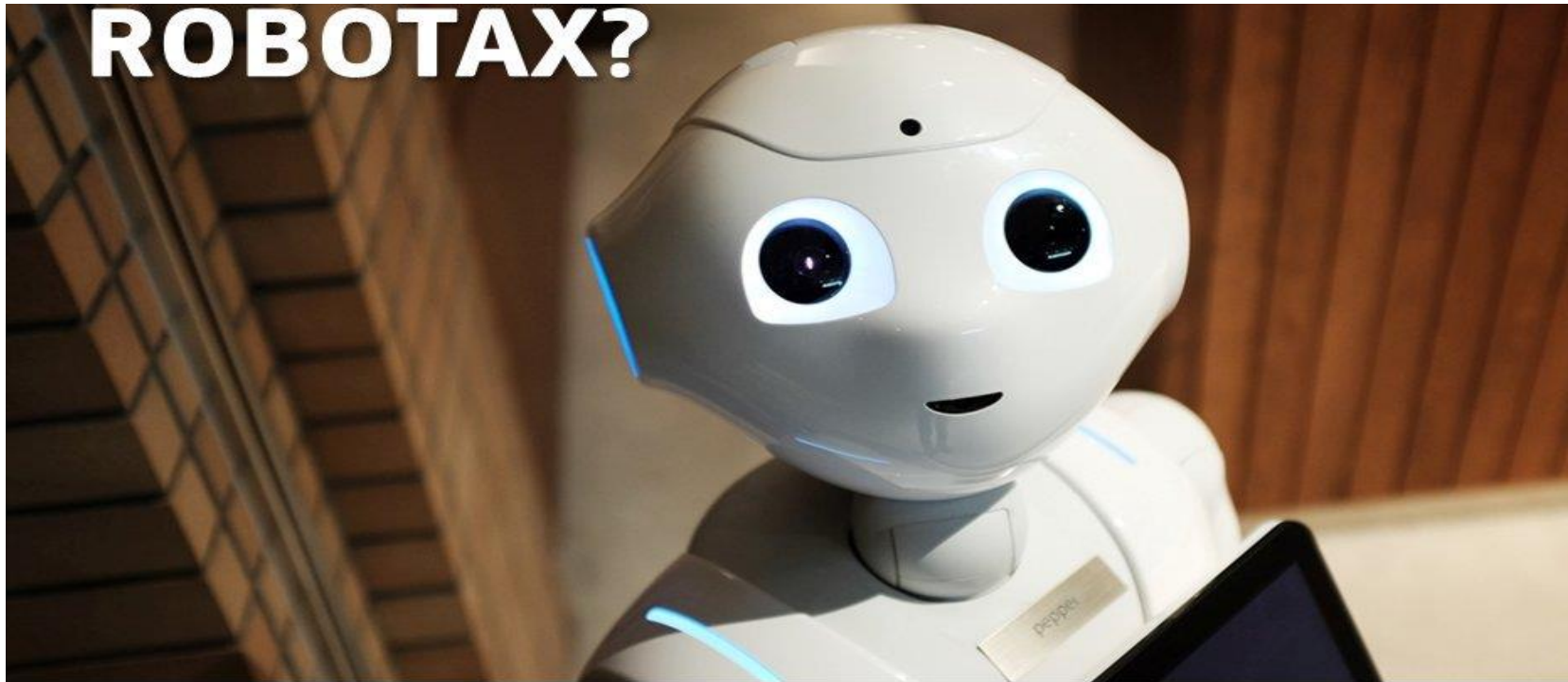


# Tax attempts on the Digital Economy



- France- 3% digital tax esp targeted to google, facebook on sales generated on such media. A lot of pushback from US
- India in 2018 enacted law to include significant Economic presence (SEP) expanding the definition of P.E to include Virtual presence
- Uganda's tax on social media on idle talk

# Tax attempts



**The robot that takes your job should pay taxes, says Bill Gates**

**Such attempts were in EU tax bill but shot down**

# OECD Proposals



- ***The User Participation Approach*** - digital businesses to allocate an amount of profit to jurisdictions where their active and participatory user bases are located, irrespective of physical presence.

- ***The Marketing Intangibles Approach***- taxed according to marketing intangibles (e.g customer bases) developed in a certain market Jurisdiction



# OECD proposals



• ***The Significant Economic Presence Approach*** e.g the existence of a user base and the associated data input; the volume of digital content derived from the jurisdiction; billing and collecting in a local currency or with a local form of payment; the maintenance of a website in a local language; responsibility for the final delivery of goods to customers or the provision by the enterprise of other support services such as after-sales service or repairs and maintenance

# Kenyas approach



- Section 3 of the Income Tax Act is amended— (2019)
- (a) in subsection (2) by inserting the following new income accruing through a digital marketplace;  
The CS to develop guidelines

Casey Turgusson, Senior Digital Development Specialist at the World Bank Group, “it would not be a walk in the park for (KRA).---

# Kenyas approach



- VAT act sec 8(3) brings to tax electronic services e.g. delivery of software, artistic work, games
- Ajira digital programme for the youth- registration fee of 10,000 in lieu of tax for 3 year finance act 2019

# Parting Shot



- Using punitive taxes and discouraging the digital economy would be like drying a pond to catch the fish

# Interactive Session

