



House of Commons  
Committee of Public Accounts

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# Tax Avoidance–Google

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## Ninth Report of Session 2013–14

*Report, together with formal minutes, oral and written evidence*

*Ordered by the House of Commons  
to be printed 10 June 2013*

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## Committee of Public Accounts

The Committee of Public Accounts is appointed by the House of Commons to examine “the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure, and of such other accounts laid before Parliament as the committee may think fit” (Standing Order No 148).

### Current membership

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Mr Richard Bacon (Conservative, South Norfolk)  
Stephen Barclay (Conservative, North East Cambridgeshire)  
Guto Bebb (Conservative, Aberconwy)  
Jackie Doyle-Price (Conservative, Thurrock)  
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Nick Smith (Labour, Blaenau Gwent)  
Ian Swales (Liberal Democrats, Redcar)  
Justin Tomlinson (Conservative, North Swindon)

### Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

### Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at [www.parliament.uk/pac](http://www.parliament.uk/pac). A list of Reports of the Committee in the present Parliament is at the back of this volume. Additional written evidence may be published on the internet only.

### Committee staff

The current staff of the Committee is Adrian Jenner (Clerk), Sonia Draper (Senior Committee Assistant), Ian Blair and James McQuade (Committee Assistants) and Alex Paterson (Media Officer).

### Contacts

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## Summary

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To avoid UK corporation tax, Google relies on the deeply unconvincing argument that its sales to UK clients take place in Ireland, despite clear evidence that the vast majority of sales activity takes place in the UK. The big accountancy firms sell tax advice which promotes artificial tax structures, such as that used by Google and other multinationals, which serve to avoid UK taxes rather than to reflect the substance of the way business is actually conducted. HM Revenue & Customs (HMRC) is hampered by the complexity of existing laws, which leave so much scope for aggressive exploitation of loopholes, but it has not been sufficiently challenging of the manifestly artificial tax arrangements of multinationals. HM Treasury needs to take a leading role in driving international action to update tax laws and combat tax avoidance.

## Conclusions and recommendations

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1. **The UK is a key market for Google but the enormous profit derived is out of reach of the UK's tax system.** Google generated US \$18 billion revenue from the UK between 2006 and 2011. Information on the UK profits derived from this revenue is not available but the company paid the equivalent of just US \$16 million of UK corporation taxes in the same period. Google defends its tax position by claiming that its sales of advertising space to UK clients take place in Ireland—an argument which we find deeply unconvincing on the basis of evidence that, despite sales being billed from Ireland, most sales revenue is generated by staff in the UK. It is quite clear to us that sales to UK clients are the primary purpose, responsibility and result of its UK operation, and that the processing of sales through Google Ireland has no purpose other than to avoid UK corporation tax. This elaborate corporate construct has damaged Google's reputation in the UK and undermined confidence in the effectiveness of HMRC. In contrast to evidence given to us previously, Google has also conceded that its engineers in the UK are contributing to product development and creating economic value in the UK.

**Recommendation:** *Public confidence in Google will only be restored when it establishes a corporate structure that ensures Google pays tax where it generates profit. This should be addressed as a matter of urgency by Google and other companies with a similar corporate structure—the Committee will continue to pursue this issue over the course of the Parliament.*

2. **HMRC has not been sufficiently challenging of multinationals' manifestly artificial tax structures.** We accept that HMRC is limited by resources but it is extraordinary that it has not been more challenging of Google's corporate arrangements given the overwhelming disparity between where profit is generated and where tax is paid. Inconsistencies between the form of the company's structure and the substance of its activities only came to light through the efforts of investigative journalists and whistleblowers. Any common sense reading of HMRC's own guidance and tests suggests HMRC should vigorously question Google's claim that it is acting lawfully. We note that HMRC has never challenged an internet-based company in the Courts on the question of its permanent establishment.

**Recommendation:** *HMRC needs to be much more effective in challenging the artificial corporate structures created by multinationals with no other purpose than to avoid tax. HMRC should now fully investigate Google in the light of the evidence provided by whistleblowers.*

3. **International tax rules are complicated and have not kept pace with the way businesses operate globally and through the internet.** While we are concerned about HMRC's effectiveness in tackling tax avoidance, we also acknowledge that it has to operate within the constraints of complicated UK tax laws and international tax treaties. As we have reported before, it is far too easy for companies to exploit the rules and set up structures in low-tax jurisdictions, rather than pay tax where they actually conduct their business and sell their goods and services. We are also particularly concerned about the out-of-date tax frameworks covering international

internet based commerce which rely on a fully automated process. We expect the UK government to take a leading role in modernising international tax law and welcome the government's emphasis on tackling aggressive tax avoidance under the UK's presidency of the G8.

**Recommendation:** *HMRC and HM Treasury should push for an international commitment to improve tax transparency, including by developing specific proposals to improve the quality and credibility of public information about companies tax affairs, and use that information to collect a fair share of tax from profits generated in each country. This data should include full information from companies based in tax havens.*

4. **The reputation of the big accountancy firms in the UK has suffered from their substantial role in advising their clients on corporate structures and tax planning which serve only to help them avoid UK taxes.** In becoming more involved in constructing complex tax arrangements for their clients, the big accountancy firms are increasingly seen as being part of the problem of corporate tax avoidance, rather than the solution. In providing tax advice and reaching audit judgements on their clients' UK operations and structures, the big accountancy firms need to focus on the substance of the enterprise, rather than on artificial structures which serve only to avoid tax. The worldwide concerns about artificial tax arrangements will not go away and the big accountancy firms have the opportunity to play a leading role in promoting and enabling transparency in their clients' tax structures and payments.

**Recommendations:** *We expect the big accountancy firms to recognise that the public mood on tax avoidance has changed. They should provide responsible advice to ensure that corporate arrangements reflect the substance of transactions and operations in the UK and enable their clients to be more transparent about where they make profits and pay tax.*

*The professional bodies of the accountancy profession should emphasise the importance to accountancy firms of behaving responsibly in selling tax advice to clients, and in reaching audit judgements on the substance of their clients' UK operations and structures.*

# 1 Google's evidence to the Committee

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1. In November 2012 we heard evidence from Google on how it manages its financial arrangements in the UK to reduce its corporation tax liability. We heard evidence from Matt Brittin, Google's Vice President for Sales and Operations in Northern and Central Europe, who is based in Google's operation in the UK, Google Ltd. In December 2012, we published a report which included the findings from our examination of Mr Brittin.<sup>1</sup>

2. We also invited to that hearing representatives from Starbucks and Amazon to give evidence. Our intention was to gain an illustration of a wider problem of possible tax avoidance, and not to single out these companies as the only ones who potentially are engaging in corporation tax avoidance.

3. At our hearing in November 2012, Mr Brittin claimed that Google complied with the law in the UK, and paid the tax required by every company in every country in which it operates. Google located its group companies in low tax areas or tax havens. The vast majority of Google's non-USA sales are billed in Ireland. In 2011, Google Ltd recorded revenues of £396 million from Google Ireland for the services provided by its 1,300 staff, but paid corporation tax of only £6 million. Those services included promoting Google products, providing education training to clients on these products and making sure they worked for UK consumers.<sup>2</sup>

4. Mr Brittin emphasised that anyone who bought advertising from Google in Europe was buying from Google Ireland. He also asserted that nobody in Google Ltd in the UK was selling Google products. He conceded that, of the 1,300 staff in Google Ltd in the UK, around 700 were marketing and digital consultancy staff, who were working with customers, but not in sales.<sup>3</sup>

5. Mr Brittin was keen to stress that Google Ltd was not engaging in sales in the UK, as this is a key factor in determining whether Google has a 'permanent establishment' in the UK. As part of an Ireland-UK tax treaty, an Irish company would be subject to UK tax on its profits earned from UK activities only if it were trading in the UK through a 'permanent establishment'. If employees of the UK company had authority to conclude contracts on behalf of the Irish company, and they habitually exercised that authority, the UK company would be a 'permanent establishment' in the UK.<sup>4</sup> Mr Brittin was adamant that staff in Google Ltd were not engaged in sales that concluded contracts with UK clients, standing by the evidence he gave us in November 2012 on this point, and aiming to support Google's defence that it did not have a 'permanent establishment' in the UK.<sup>5</sup>

6. Since we received this evidence from Mr Brittin, the Committee received information from whistleblowers which showed clear discrepancies with the claims made to us by Mr

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1 'HM Revenue and Customs: Annual Report and Accounts', 19th Report, Committee of Public Accounts, HC 716, 3 December 2012 <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/716/716.pdf>

2 Ibid, paragraph 10, page 9

3 Ibid, paragraph 10, page 9

4 Q 50

5 Qq 9, 14, 16, 21, 23, 26, 46, 135

Brittin in November 2012. On 1<sup>st</sup> May 2013, Reuters published a report '*How Google clouds its tax liabilities*.' The report also challenged the evidence which Mr Brittin gave to the Committee that Google Ltd staff were not directly engaged in sales activity with UK clients.<sup>6</sup>

7. We invited Mr Brittin back on 16 May 2013 to discuss the information gleaned from whistleblowers and published by Reuters, and whether he wished to reconsider and clarify the evidence he gave to the Committee in November 2012. We reminded Mr Brittin that it is a very serious offence to mislead a parliamentary Select Committee.<sup>7</sup> We also took further evidence from Google Ltd's auditors Ernst and Young, and from HM Revenue & Customs (HMRC) about the tax arrangements of multinational companies in the UK.

8. The whistleblowers, who included ex-employees of Google Ltd, provided the Committee with details demonstrating that Google Ltd's UK staff carried out the substance of work leading to contracts with major UK clients. They also gave us a range of evidence to support their assertions. This included, for example, pay slips showing sales related bonus payments, and Google documentation covering the entire trading and sales process within the UK. The evidence presented to the Committee included a Google diagram of the sales process interaction with UK clients, all of which were executed by UK-based staff. The whistleblowers told us that UK staff had been set sales targets and paid commissions for the sales achieved. This evidence showed that Google Ltd's UK staff were carrying the substantive work to generate the revenue from Google's presence in the UK.<sup>8</sup>

9. The Reuters' report drew on research including an examination of: job descriptions for positions advertised by Google Ltd; the online profiles and work objectives on 'LinkedIn' of Google Ltd staff; and Google Ltd's UK corporate website detailing its UK activities and functions. The Reuters' report also drew on interviews with a sample of Google Ltd's UK clients about their contacts with Google Ltd's UK staff. The Reuters' report claimed that each source indicated clear evidence of direct sales activities to UK clients by Google's Ltd's UK staff.<sup>9</sup>

10. Mr Brittin continued to state that Google Ltd's UK staff do not have the right to sell Google products, as the rights are owned by Google Ireland. He told us that around 99 per cent of companies in the UK that spend money with Google do so without talking to Google Ltd's staff as they conduct their transaction online, though an automatic auction.<sup>10</sup>

11. Mr Brittin accepted that the remaining 1% of companies in the UK are those with the higher value prestige accounts. These companies are responsible for between 60-70% of the total spend of all British companies with Google. Google Ltd's UK staff have a direct relationship with these clients and meet them regularly.<sup>11</sup> The Google Ltd staff discuss with high value clients how many people are searching for their products on Google, the cost for

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6 '*How Google clouds its tax liabilities*', Reuters, 1 May 2013 <http://uk.reuters.com/article/2013/05/01/uk-tax-uk-google-specialreport-idUKBRE94005R20130501>

7 Q1

8 Qq 1, 14-16, 20, 25, 33, 124-129, 139, 190, 272

9 '*How Google clouds its tax liabilities*', Reuters, 1 May 2013

10 Qq 8, 17

11 Qq 27, 174-185



their name and link to appear when people use search words, how to convert appearance on Google searches into sales, and how profitable advertising on Google could be.<sup>12</sup>

12. Mr Brittin also acknowledged that Google Ltd often seeks people with sales skills, that some staff have sales in their job title, and conceded that it has UK staff who are doing lots of the aspects of selling.<sup>13</sup> He recognised that UK clients would feel they were being sold to by UK staff.<sup>14</sup> Mr Brittin confirmed that UK staff have an advertising rate card, which they can use to discuss prices with UK clients and negotiate against these prices for different volumes. However, while he accepted that UK staff could agree a sale, he stated that they did not have the ability to commit Google UK Ltd to any contracts, or to conclude a transaction, and that no money changed hands within the UK.<sup>15</sup>

13. Mr Brittin considered that the post descriptions in Google Ltd's recruitment advertising, and the job descriptions given by its UK staff on their 'LinkedIn' profiles, both of which gave specific details of sales related responsibilities, did not mean that was how Google Ltd operated in the UK or were relevant for tax purposes.<sup>16</sup> Mr Brittin claimed that, prior to the establishment of Google Ireland, all contracts with UK clients would have been signed with Google Inc. rather than with Google Ltd in the UK.<sup>17</sup>

14. Google also has at least 500 engineers in the UK that assist with the development of its products, compared to 17,000 engineers in California. Mr Brittin had told us at our November 2012 hearing that these staff were not undertaking product development and viewed its economic activity to be undertaken in the US. We heard from a whistleblower that at Google's premises in London systems developers are working the development of the Android telephone management system. In contrast to his evidence last November, Mr Brittin conceded that engineers in the UK are contributing to product development. In November 2012 Mr Brittin had told us that "The people in the UK...are not doing the product development". When we asked in May 2013 whether UK engineers are developing products, Mr Brittin said that "They are contributing to the development of products, absolutely", and told us that there was particular expertise in London on the Android operating system for smartphones. He accepted that the engineering work in the UK is creating economic value, while also stressing that the intellectual property for products is owned elsewhere, and that the Android work is led from California."<sup>18</sup>

15. The Committee considered the reality of Google's operations to be that sales to UK clients are the primary purpose, responsibility and result of its UK operation, Google Ltd. It was clear to us that it is Google Ltd's UK staff who add the value in generating revenue in the UK from their close working with its high-value clients, from whom Google Ltd generates 60-70% of its revenue. It was particularly evident to the Committee that Google

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12 Q 85

13 Q 110

14 Qq 35, 40

15 Qq 67-73, 79-83

16 Q 122

17 Qq 57-58, 60

18 Qq 139-147, Q 512; 'HM Revenue and Customs: Annual Report and Accounts', 19th Report, Committee of Public Accounts, HC 716, 3 December 2012, Ev 41-43

Ireland has a very limited role, simply to step in at the end of the process, to carry out the automated billing. It made absolutely no sense to the Committee, to the former members of Google staff who contacted us, or to Google's UK clients surveyed by the Drum magazine, that these UK sales are, as Google attempts to argue, actually sales from Ireland. This is especially the case when sales are conducted in sterling and payment can be made to UK banks.<sup>19</sup>

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19 Q124-Q 128

## 2 Ernst and Young's evidence to the Committee

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16. In January 2013, we invited Ernst and Young, along with Deloitte, KPMG, and PwC to give evidence to the Committee about the nature of the tax advice they provide to multinational companies. We were concerned about large companies paying little corporation tax in the UK, despite doing a large amount of business here. We found these large accountancy firms enjoy a large market for advising companies on how to take advantage of international tax law, and on the tax implications of different global structures. We concluded there is no clarity over where the large accountancy firms draw the line between acceptable tax planning and aggressive tax avoidance. The big four firms advise their clients on reducing tax liabilities, including offering complex operating models to multinationals with the aim of minimising tax through exploiting the lowest international tax rates.<sup>20</sup>

17. We recommended HM Treasury should introduce a code of conduct for tax advisers, setting out what it and HMRC consider acceptable in terms of tax planning. We also recommended HMRC and HM Treasury should push for an international commitment to improve tax transparency, including by developing specific proposals to improve the quality and credibility of public information about companies' tax affairs.

18. In the light of the information from whistleblowers and published by Reuters, we invited back John Dixon, Head of Tax at Ernst and Young (Google Ltd's auditor) to give us further evidence. Mr Dixon refused to provide any answers specifically about Google's affairs, but discussed the ways in which Ernst and Young work with multinationals generically.<sup>21</sup>

19. Mr Dixon stated that Ernst and Young provides multinationals with a statutory audit service and is able to assist a company with the design of its structure, and can provide tax planning advice. Mr Brittin did not know whether it was Ernst and Young which had designed Google's company structure when it was formed in 2002.<sup>22</sup>

20. Mr Dixon considered there are many multinational businesses claiming they do not have 'permanent establishments' in the UK. He thought HMRC would examine a multinational's case that it was not a 'permanent establishment' as a matter of course. He told us that, at the front and centre of an HMRC investigation into the UK operation of a multinational which is providing services to its operations overseas, would be how close its UK staff get to the point of sale.<sup>23</sup>

21. Mr Dixon explained that when Ernst and Young conduct an audit of a large multinational company, it ensures the company's accounts do not contain a material

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20 'Tax avoidance: the role of large accountancy firms', 44<sup>th</sup> report, Committee of Public Accounts, HC870, 26 April 2013 <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/870/870.pdf>

21 Qq 47 - 50

22 Qq 181-184, 197

23 Q77

misstatement that would lead to an understated tax liability for the company. Its audit processes require it to question whether that company is trading in other jurisdictions through a 'permanent establishment'. Mr Dixon told us that Ernst and Young review the substance of what is happening on the ground.<sup>24</sup>

22. In his evidence to the Committee in January 2013, Mr Dixon had confirmed that Ernst and Young auditors would check whether a client's staff were carrying out activities consistent with the client's claimed structure and activities in the UK.<sup>25</sup> In his additional evidence, Mr Dixon added that Ernst and Young would also interrogate the client's e-mails and interview staff if they found evidence contradictory to the claimed structure.<sup>26</sup> He reported that, when auditing a multinational for which there might be a question whether it has a permanent establishment in the UK, the auditors would examine what the multinational's staff are doing with UK clients, including tracing back from an invoice to the customer, to see whether there is a grey line between procurement and sales activities.<sup>27</sup>

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24 Qq 179 -180

25 *Tax avoidance: the role of large accountancy firms*, 44<sup>th</sup> report, Committee of Public Accounts, HC870, 26 April 2013 <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/870/870.pdf>, Q 101-102

26 Q 188

27 Q 191

## 3 HMRC's role in tackling corporate tax avoidance

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23. We have long been concerned that, despite HMRC having customer relationship managers for large businesses to understand these organisations, and its overriding duty to collect all tax due, it has not done enough to tackle corporate tax avoidance.<sup>28</sup> In the case of Google, we could not understand how a few journalists, whistleblowers and MPs have uncovered what the Department had not.<sup>29</sup>

24. The Department told us it believed it reached legal, reasonable and good decisions on tax due.<sup>30</sup> It defended its judgment on companies' tax liabilities and emphasised these are made by expert tax professionals.<sup>31</sup> The Department denied it operates in a way that favours big companies rather than small taxpayers. The Department told us it wins 86% of the cases it takes to court, as an indicator of its good judgment in using taxpayers' money in going to litigation.<sup>32</sup>

25. The Department has around 1,200 people work in its large business service, dealing with the 800 largest businesses in the UK. This includes a specific transfer pricing specialist team of 65 people, supported by case-working teams to examine whether multinationals have a 'permanent establishment' in the UK and their use of transfer pricing. It is recruiting three further economists and 15 specialists.<sup>33</sup>

26. The Department recognises that multinationals have very carefully planned their structures, with advice from the expert tax advisers in the large accountancy firms. The Department's staff check a multinational's declared structure against what it finds out about how the multinational actually operates in the UK. This involves visiting the company premises, interviewing senior executives and employees, observing what employees are doing, gathering third-party information from customers of the business, and liaising with other fiscal authorities.<sup>34</sup>

27. The Department considered that the evidence presented by whistleblowers to the Committee might not be directly relevant to whether Google has a 'permanent establishment' in the UK.<sup>35</sup> However, it acknowledged that the greater the value added by

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28 'HM Revenue and Customs: Annual Report and Accounts', 19th Report, Committee of Public Accounts, HC 716, 3 December 2012

'Tax avoidance: the role of large accountancy firms', 44<sup>th</sup> report, Committee of Public Accounts, HC 870, 26 April 2013

'HM Revenue and Customs 2010–11 Accounts: tax disputes', 61<sup>st</sup> report, Committee of Public Accounts, HC 1531, 20 December 2011 <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpubacc/1531/1531.pdf>

29 Q 220

30 Qq 220–21

31 Q 223

32 Q 223, 226

33 Qq 226–227

34 Qq 226–228

35 Qq 229–230

UK staff, the greater the transfer price that should be paid to Google Ltd, even if this did not necessarily create a 'permanent establishment' of Google in the UK.<sup>36</sup>

28. The Department acknowledged it has had disputes with digital businesses about whether they have a 'permanent establishment' in the UK, and whether the UK operation is getting the right transfer price for the services it provides to its operations overseas. The Department told us that there has been no litigation against any digital company in relation to 'permanent establishment'.<sup>37</sup> It accepted that the current international rules about 'permanent establishment' have been under strain following the development of a digital economy. The Department has experienced cases where it argues there is trading activity in the UK, but has not been able to prove the multinational has a permanent establishment in the UK carrying out the trading activity. It concluded that the UK and other fiscal authorities will struggle with multinational digital businesses until those rules are updated.<sup>38</sup>

29. The Department considered its work does already achieve an impact on large business behaviour. However, it also acknowledged there is more it can do to tackle avoidance and it could use more resources to do this.<sup>39</sup>

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36 Q 231

37 Q 267

38 Qq 242-245

39 Q 239

# Formal Minutes

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**Monday 10 June 2013**

Members present:

Mrs Margaret Hodge, in the Chair

Mr Richard Bacon  
Guto Bebb  
Meg Hillier

Fiona Mactaggart  
Ian Swales  
Justin Tomlinson

Draft Report (*Tax Avoidance–Google*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 29 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Ninth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report (in addition to that ordered to be reported for publishing on 16 May 2013).

[Adjourned till Wednesday 12 June at 2.00 pm]

## Witnesses

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**Thursday 16 May 2013**

*Page*

**John Dixon**, Head of Tax, Ernst & Young and **Matt Brittin**, Vice-President for Sales and Operations, Northern and Central Europe, Google

Ev 1

**Lin Homer**, Permanent Secretary and Chief Executive, HM Revenue and Customs and **Jim Harra**, Director General, Business Tax, HM Revenue and Customs

Ev 23

## List of printed written evidence

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1	Google	Ev 32;39
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## List of Reports from the Committee during the current Parliament

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The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2013–14

First Report	Ministry of Defence: Equipment Plan 2012-2022 and Major Projects Report 2012	HC 53
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# Oral evidence

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## Taken before the Committee of Public Accounts on Thursday 16 May 2013

Members present:

Margaret Hodge (Chair)

Mr Richard Bacon  
Stephen Barclay  
Guto Bebb  
Jackie Doyle-Price  
Chris Heaton-Harris  
Meg Hillier

Fiona Mactaggart  
Austin Mitchell  
Nick Smith  
Ian Swales  
Justin Tomlinson

**Amyas Morse**, Comptroller and Auditor General, National Audit Office, **Gabrielle Cohen**, Assistant Auditor General, National Audit Office, **Paul Keane**, Director, National Audit Office, and **Marius Gallaher**, Alternate Treasury Officer of Accounts, HM Treasury, were in attendance.

### Examination of Witnesses

*Witnesses:* **John Dixon**, Head of Tax, Ernst & Young, and **Matt Brittin**, Vice-President for Sales and Operations, Northern and Central Europe, Google, gave evidence.

**Q1 Chair:** Welcome. Thank you for coming this morning. I find this room rather difficult—I prefer the House of Commons—so I would be grateful, because of the acoustics, if you could speak up. The shorter your answers, the quicker we can get through this session.

Mr Brittin, I want to start by reminding you that it is a very serious offence to mislead a parliamentary Select Committee. I want to quote “Erskine May” to you: “A person prevaricating or giving false evidence can be considered to be in contempt of the House.” That has very serious repercussions. I just wanted to remind you of that.

Since you last gave evidence to us in November, we have had a detailed investigation by Reuters and I have been approached by a stream of whistleblowers, some of whom we have met. The information that we have gleaned from that shows clear discrepancies, I am afraid, between the evidence you gave and the reality of what actually happens in Google on the ground. This is an opportunity this morning for you to explain yourself.

Can I start by setting a context? Am I right that Google started in the UK around 2000 or 2002?

**Matt Brittin:** Yes.

**Q2 Chair:** You were in small offices and then moved to Sutton Row?

**Matt Brittin:** Yes.

**Q3 Chair:** You then moved from there to Belgrave House on Buckingham Palace Road and Central Saint Giles, Tottenham Court Road. Is that right?

**Matt Brittin:** That is right.

**Q4 Chair:** Good. When did you open your offices in Ireland? When did you open Google Holdings Ireland?

**Matt Brittin:** I don’t have the precise date, but it is in excess of 10 years ago, I believe.

**Q5 Chair:** Ten years ago. So about 2002 or 2003?

**Matt Brittin:** Yes. I can confirm the specific dates for you, but about that time.

**Q6 Chair:** Google was very small when you started 10 years ago and you rapidly built your customer base with many of the leading UK companies. At that time, the UK-based staff had to explain what Google did—its advertising potential—and they were building sales relationships, which have been in existence continuously since that time. So they exist today from relationships established by UK-based staff at that time.

**Matt Brittin:** Some of them do. We have somewhere between 160,000 and 200,000 UK businesses that advertise with Google. Some of them will have started more recently.

**Q7 Chair:** Okay, but you are not suggesting that, when you established some of the clients that you have today—some of your higher-value clients—the initial set-up was in Dublin, are you?

**Matt Brittin:** Well, when we came to Europe—we will have to check on the exact timing of the opening of operations in different markets—we set up Dublin as our European headquarters pretty rapidly. We set that up because we wanted to be able to contract with customers across the whole of Europe, not just in the UK. Today, Dublin has 3,000 people, five buildings and two data centres. It is our largest operation in Europe. Any advertiser in the UK, Germany, France or any European country contracts with Google in Ireland, because that is where they have the rights to sell Google advertising. Remember, what we are talking about here is Google making its money from businesses advertising with Google, not from physical products, so the way we are established is that Ireland owns the technology—owns the intellectual property—for the purposes of selling to all customers across Europe.

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16 May 2013 Ernst & Young and Google

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**Q8 Chair:** I understand that. You told us that last time. What I am saying is that when you started in the UK and you were having to persuade people that advertising on Google was a good and profitable thing for their businesses, those relationships were established here in the UK.

**Matt Brittin:** With the largest companies, yes. If I look at the number of advertisers, literally 99% of the advertisers—the companies in the UK that spend money with Google—have no contact with people in the UK. Literally 99% by number—

**Q9 Chair:** Sorry to interrupt you; I am going back. You set up the businesses. You came here in about 2002. I think the Irish company was established or incorporated in 2003, as far as I can tell, but in the early days, when you were trying to attract business and establish, you grew very rapidly. You were extremely successful. In those early days, you had to establish your relationships with companies face to face here in the UK. Just yes or no, really.

**Matt Brittin:** I was not working with Google at the time, but I believe that what was happening was that if people were on the ground in the UK before Ireland was established—I think you may be driving at that, but I do not have the dates here, so I cannot confirm specifically—they would have been encouraging people to spend with Google, as I have said previously. By the way, I do stand by everything that I said last time I spoke to you.

**Q10 Chair:** We will come back to your standing by what you said last time.

**Matt Brittin:** Since you have raised it, I wanted to mention it.

**Q11 Chair:** What I am suggesting to you is that your UK-based staff were working out of Soho, then moving to Sutton Row. In those early days, your UK-based staff went out, talked to clients, discussed the words that they would have to put in, and discussed terms as to how much they would have to pay for every click. They discussed discounts where they were relevant, and they did the business here in the UK to establish those.

**Matt Brittin:** Let me take what you said in turn and be very clear about that. Now, and I believe then, people in the UK will be talking to businesses, explaining how the Google system works and showing them the opportunity to spend money profitably with Google, but nobody in the UK has had the right to close a transaction with an advertiser. This is an important point, because over 90% of the money that is spent with Google by UK companies is spent on an auction basis. I raise that point because you mentioned pricing. The auction sets the price. When you search for tartan on Google and somebody wants to advertise against tartan, there is an auction that happens as the search page loads. So, the price is set by the competition in the auction, not by our teams. There is no price discussion. Equally, there is no volume discount to be negotiated. As I said last time, the people in the UK can encourage people to use our products and can show them the business opportunity, but no money changes hands. There is no transaction

that can be executed by the people in the UK, because the transaction is executed with the system in a live auction.

**Q12 Chair:** I am taking you back, Mr Brittin, to the early days of 2002, 2003, 2004, 2005 and 2006 when you were there. I want to challenge that a little bit. Let me just establish one more thing. Every client you get has an account number, don't they?

**Matt Brittin:** That is correct, yes.

**Q13 Chair:** And account numbers that may have been established here in the UK were then transferred over to Ireland?

**Matt Brittin:** As I said, I was not around and I cannot be totally specific on those early days of Google, but, to the best of my knowledge, people in the UK will have established accounts either initially with the US, if that was predating Ireland being established, or with Ireland.

**Q14 Chair:** Let me tell you what one of our whistleblowers told me. He joined you in the early days and was quite clear to us that the advertising was sold in the UK. In those days, the key words were identified here in the UK by UK-based staff. The ads were designed by UK-based staff, the clients were visited by UK-based staff and the deals were closed by UK-based staff or with their agencies, which were also UK-based. UK-based staff would visit the clients to get them to spend more money. These clients included Amazon, BT, eBay, Argos, Halifax, British Airways, Land Rover and Lloyds TSB. The documentation I have seen included many, many more clients.

You said in answer to question 460 on 12 November when you appeared before us that “anybody who buys advertising from us in Europe buys from Google in Ireland, from our expert team”. Would you now like to rephrase what you said to us in November, in light of evidence given by a whistleblower and about which both I and the Comptroller and Auditor General have seen the documentation?

**Matt Brittin:** As the Reuters story to which you referred and which you discussed with the journalist was published, I looked back at my evidence. I stand by what I said. I answered 150 questions, and conveniently you provided a transcript, which runs to 27 pages, of the testimony I gave there. I have here four pages of the key quotes, and I described very clearly how we operate, and answered your questions. The story lifted, I think, three words from that evidence, and they then published a story that was suggesting we were trying to disguise how we were operating. That is just not true.

**Q15 Chair:** Are you telling me that what the whistleblower said to me, and the documentation that both the Comptroller and Auditor General and I saw, is false? All I can assure you, Mr Brittin is, I saw it. So did the Comptroller and Auditor General. It was quite clear from all that documentation that the entire trading and sales process took place in the UK. I simply suggest to you again that you think about what you actually said on 12 November, which was that

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“anyone who buys advertising from us in Europe buys from Google in Ireland, from our expert teams”. That is not what the whistleblower told us, and that is not what the documentation demonstrated.

**Matt Brittin:** Obviously, I take this very seriously, so please let me take the opportunity to talk through those questions. First, I have not seen what the whistleblower, as you call it, has shared. I would be very happy to look at that and check what has been said. My questions last time were in reference to how we are operating today, so you are referring to a period before I joined Google that I do not have personal knowledge of, so I am making my best attempts to answer questions on that.

**Q16 Chair:** I understand that, but, from our point of view, if one looks at the definition from HMRC, one of the tests is whether there is trading activity by Google by the non-resident Google Holdings Ireland into the UK. The answer has to be yes. Does that trading take place in the UK? Yes. Does the non-resident company have a fixed-base business in the UK? Yes. Is the trade carried on through the fixed base of that business? That is the contention. Our whistleblower and the documentation demonstrated that, yes, the trade was carried on here and, therefore, in that context, I think you should think really carefully about what you said to us and whether or not it holds true with—I repeat—documentation that we have seen and evidence that we received from one whistleblower. There are more to come.

**Matt Brittin:** I would like to deal with the point about what you call the whistleblower. Having not seen that, it is hard for me to comment. It predates my period at Google. All my evidence, which I gave last time and which I stand by, referred to how we currently operate and how we have operated in the period since I have been with Google, which is six and a half years. I would be happy to answer specific questions, but you will need to share with me the details so that I can do that, and I will answer them immediately after this. The way we operate, which I said last time in answer to your questions, is very clear. I said that the UK team—people in Google UK Ltd—are promoting our properties and encouraging people to spend money with Google. Clients may well feel that they are selling; we hire people with sales skills and they are encouraging people to spend money and showing them the business case, but what is very clear is that no one in the UK team can execute a transaction—no money changes hands—and there are very good reasons for this. I would like to talk you through those reasons because I think it will help to be clear on this. First, the rights to what we sell—the rights to what is sold—are owned by Google Ireland. We are not talking about products on a shelf; we are talking about buying advertising on a technology platform called AdWords, which is built in the US—17,000 of our global engineers are in the US, and AdWords was invented there. They buy advertising from a platform that is built outside the UK, and because 90% of the money they spend is on an auction basis, the prices are set by the platform. Nobody here can agree a price and nobody here can agree any volume discount, because it is an auction-based process. The people

here can only encourage that to happen; they can’t sell what they don’t own. The people here can’t sell what they don’t own, they can’t agree a price, they can’t agree a volume discount, and that is why very clearly what they are doing is not executing the trade.

**Q17 Stephen Barclay:** Mr Brittin, the essential point is not whether they execute; the crux is whether they enter into detailed negotiation and go beyond promotion. Are you saying that you are satisfied that none of your staff go beyond promotion?

**Matt Brittin:** There are two things that help you understand it. The first is that 90% of the spend by British companies with Google is on an auction basis, okay? The price is set by the auction in the moment that you do your search. There is no volume discount: whether you are the biggest advertiser or the smallest advertiser spending a few pence with us, there is no volume discount, so there is no ability to negotiate on price or terms in that respect. Secondly, the people in the UK don’t have the rights to sell; they only have the ability to promote, because the rights are owned by Google Ireland. There are headquarters across every country in Europe. Thirdly, as I said earlier, 99% of the UK companies that spend money with Google spend it without seeing or talking to anybody who is in Google UK Ltd, because they do it online and they have—

**Q18 Chair:** Right, we’re getting repetition. I want to go to the Comptroller and Auditor General, then Chris, and then I will come back to carry on with further evidence that we have.

**Amyas Morse:** I am sure we will come to ask more questions about the present day; I intend to ask a question on what the Chair was talking about, which is the build up of business. We heard testimony that there had been a systematic transfer of accounts from the UK to Ireland. I appreciate that you may tell us that that was before your time, but it can’t be that you don’t have records of that—I am sure you could provide information to the Committee to say when that happened and on what basis it happened.

**Matt Brittin:** Yes, of course. If indeed that has happened, and if you let us have the questions and the testimony that you say you have seen, I will happily answer any questions.

**Amyas Morse:** No, that is not the point. It either happened or it didn’t, and you do not require somebody else’s testimony to determine whether it happened.

**Matt Brittin:** On that specific point—

**Amyas Morse:** If accounts were first established in the UK and then systematically transferred over to Ireland, and that has been the practice through time, you will be able to furnish the Committee with details of what those accounts were.

**Matt Brittin:** Certainly I will be able to answer that very specific question.

**Amyas Morse:** Thank you.

**Q19 Chris Heaton-Harris:** I want a bit of clarification on why you are hammering on about price in this market, because trade in that definition is

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the action of buying and selling goods and services; it doesn't mention price at all.

**Matt Brittin:** I was asked about negotiation, which I assumed would include price and other terms. I think that is why I mentioned that.

**Chris Heaton-Harris:** I think we are talking about the transaction and not the price.

**Matt Brittin:** I beg your pardon. I was assuming that price was included in negotiation, but to be clear, the transaction is completed with Google Ireland, who own the intellectual property, and that applies to every advertiser or business in the UK and every other European country.

**Q20 Chair:** Can we now move on? The same whistleblower then also showed us an invoice that was sent to clients from your UK office, which at that time was at 12 Sutton Row. The invoice actually went to clients from the UK: people were putting a signature on a document in the UK and that document had a UK address. Would you now like to clarify the evidence you gave last November, when you said, "Nobody is selling or promoting the products... No one is buying from them"—the UK-based staff? Yet I have seen an invoice which came from your London office.

**Matt Brittin:** I presume the date of the invoice you refer to is 2002–03, from what you said. Is that correct?

**Q21 Chair:** The invoice was from when you were in Sutton Row, which I don't think was 2003. Nevertheless, tax liabilities go right back to when you established your Irish company, which was in 2003, I believe—it might have been 2002, but I think it was 2003. I know more about Google than you do now.

**Matt Brittin:** You certainly know more about what we did in 2002 than I do.

**Chair:** Yes, but you are answering for Google.

**Matt Brittin:** I am answering for Google. Last time I was answering for Google—and I stand by everything I said—I was answering in respect of how we operate our business today and over the last few years. I was not asked any questions about earlier.

**Q22 Chair:** If there was an invoice sent from London before you joined the company, would you accept that that seems to be pretty clear evidence of there having been a deal concluded from UK-based offices, which has to be assessed as trade here, and therefore any tax liabilities arising out of it should stand?

**Matt Brittin:** I would need to see and understand the invoice, but I am happy to answer the questions that you raise.

**Chair:** I am sure you can trace the invoices in your company without us having to provide them for you.

**Matt Brittin:** Of course. I would be happy to do that. If you let me see the invoice then I will—

**Chair:** No, we are not going to let you see the invoice. I am sure you have those invoices in your company.

**Matt Brittin:** I am happy to answer any specific questions.

**Q23 Chair:** Can I say to you that this was not one invoice? We saw one invoice and a pro forma, which was clearly used at that time by your UK-based staff as they closed deals here in the UK.

**Matt Brittin:** That surprises me. I will certainly answer those questions. I do not have personal knowledge of them. I would like to go back, because you raised question about the evidence I gave last time and I would like to confirm again that you were asking me questions about how we currently operate and I stand by my evidence.

**Q24 Chair:** We will come to how you currently operate, because we have whistleblowers about that, Mr Brittin. We will continue having whistleblowers until we get to the bottom of the truth about all this.

**Matt Brittin:** I am happy to answer all your questions, and I will continue to answer them. Those I cannot answer personally now, I will answer subsequently. Can I deal with the other question you raised before we move on? You quoted something from the previous hearing. It was a quote about selling in the UK. I went back, as I said, through everything I said. I think I explained pretty clearly the roles of people in the UK, but there was this one phrase, "Nobody is selling or promoting the products, but they are definitely encouraging people to spend money". It concerned me that that sounded at odds with everything else that I had said. I went back to the video of the conversation, and there is one piece—I apologise, because we did not spot this in the transcript. I actually said, "Nobody is selling. They are all promoting the products. They are definitely encouraging people to spend money with Google, but nobody is buying from them," because that happens with Dublin. So there was one correction we did not spot when the transcript was sent out. I think that makes what I was saying rather clearer. I was emphasising the fact that people in the UK were promoting the products, encouraging people to spend money, but the trade is executed with Ireland, where the intellectual property is owned. That is the case as we operate today. I will answer questions about the earlier period, which I don't have direct knowledge of, separately.

**Q25 Chair:** There are two other issues from this whistleblower, and then I will move on. The whistleblower also showed us a presentation—a diagram—of the sales process and the actions associated with that. Each box on that presentation showed a stage in the sales process in the interaction with a client, and all the actions were executed by UK-based staff. It was a pretty substantial document. It was a document that informed all UK-based sales staff of what they should be doing, and it was not marketing, it was selling. It was trading in the UK.

**Matt Brittin:** From what period is this document?

**Q26 Chair:** This document is from a period when you were still claiming that all the trading was taking place in Ireland, therefore you were not liable for corporation tax here in the UK. I put this simple question to you: given that this document exists—no

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doubt you will find it in your own records—do you want to clarify anything you said last November?

**Matt Brittin:** I stand by everything I said last November, with the exception of the clarification that I just made on the transcript. In the body of what I said, if you look at every quote, I described exactly what we do.

I have not seen the document to which you refer and I do not know from what period it comes—

**Chair:** It will be in your records.

**Matt Brittin:** If you let us see the document—we obviously have thousands of documents—it would be helpful to see what you are referring to. It is hard to counter something that I have not seen.

Everything I have told you in November about how we operate today is how we currently operate. I am happy to clarify further today.

**Q27 Chair:** We have had a stream of whistleblowers, and we have met another whistleblower, who is a senior salesman with Google and who worked in your office near Centre Point since you have been there. He said that he was set sales targets and paid on commission for the sales that he achieved. He provided us with his monthly pay slip, which showed that he earned a relatively modest basic salary, but then got a success bonus—a commission—of between three and four times his basic salary for selling and closing deals. The commission, he told us, is triggered at the bottom of the range by achieving a minimum level of sales in a month, and then there is an accelerated reward as the sales increase.

The only sort of employee who would get paid in that way is a salesman. You do not need to incentivise an adviser, or whatever you call them, so highly. This is a senior salesman who said that he was making sales in the UK. The client was signing off or committing to a media plan, and then the invoice—the billing—was in Ireland. This is a UK sale and should be subject to UK tax.

This is during the period that you have been responsible for the UK effort. I would ask you to reconsider what you are telling us. It doesn't make sense to your own staff, to the Committee or to any of your clients. The only people that it seems to make sense to are Google. You are the last man standing on this.

**Matt Brittin:** I do not recognise the characterisation that you paint. You raised a number of points, and I would like to deal with them in turn.

It is true that the people who are dealing with customers in the UK—the 1% of customers who see UK Google staff—are incentivised to encourage people to spend money with Google; that is appropriate. Therefore, they have targets, not on an individual account basis, but which include the growth of the business that they are responsible for across a range of customers or industry sectors. It is true that people have targets. Many companies incentivise staff in-country to grow the business. That is something we do. Those staff are paid bonuses—

**Chair:** They grow the business by selling advertising space.

**Matt Brittin:** They grow the business by encouraging people to spend money on Google products.

**Q28 Chair:** They grow the business by selling advertising. How else are you going to measure it? They get their commission when the sale is closed. They have grown the business by selling advertising.

**Matt Brittin:** I have “Sales” in my title, and so do other people. People perform functions of sales in the UK—that is correct, and I said that last time. However, any customer who spends with us has to buy from Ireland, because that is where the intellectual property sits. The Google people do not have the right to sell. You cannot sell what you do not own.

**Q29 Chair:** We understand that. The billing is in Ireland, but there is a difference between the billing being in Ireland and where the whole sales process takes place.

This whistleblower sent us another document—

**Matt Brittin:** Can I deal with some of the other points you raised? You raised a lot of points.

**Q30 Austin Mitchell:** Why do you pay commission to salespeople in this country when it should be paid to someone in Ireland?

**Matt Brittin:** Well, 99% of the companies that spend with us spend with Google in Ireland and not speaking to anyone in the UK. All those people are spending either—

**Austin Mitchell:** So the commission should go to the Irish.

**Matt Brittin:** The Irish are also able to earn commission and hit targets for the growth of the business, of course.

**Q31 Austin Mitchell:** So the commission to the English salesperson is just a token of good will, is it?

**Matt Brittin:** No. I would like to answer your questions but they are coming rather thick and fast. Let me try to deal with them as clearly as I can.

If somebody in the UK is encouraging people to spend money with Google and showing them the opportunity to grow their business by investing money with Google, we think that it is appropriate to give them incentives to achieve those things, but they are not closing the transactions, they are not collecting the money and no money is changing hands with them. The vast majority of the customers are dealing direct with Ireland. They are speaking to people on the phone who are also incentivised and commissioned to grow the business. We think that it is sensible to incentivise your staff to grow the business. We could debate sales all day—what is and is not sales—but the fact of the matter is that calling somebody a sales rep or saying that it is part of a sales process is not the issue here. It does not alter our tax bill—

**Q32 Chair:** It is the issue, because if sales activity is taking place in the UK—we all accept that the billing is in Ireland—you are misleading both Parliament and the tax authorities in suggesting that that is not happening.

**Matt Brittin:** As I said multiple times the last time we met, and as I am trying to explain—

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**Q33 Chair:** For this particular whistleblower, three to four times his monthly salary comes from commission. That commission is measured—

**Matt Brittin:** Can I?

**Q34 Chair:** I just want to take this through. He showed us another document, which was a sales document—this is contemporary; you can find it. It was a presentation for UK-based staff. It was a Google display document, right? It set objectives for UK-based staff. It set out how those UK-based staff were expected to deliver the sales plan. It covered a really vital sector in our economy, and it covered the 10 biggest companies in that sector, all of whom are household names. It set out the revenue that you had received from these 10 companies in 2011 and it set the targets for 2012. The growth in sales from the individual companies ranged from 18% to 1,154%, but the total revenue growth target for UK-based sales staff was 100% in those two years.

It then covered the strategy and the actions for achieving the sales target and what you expected your sales staff in the UK to do. It covered a whole lot of KPIs, including the number of pitch decks that they were supposed to undertake, and that is sales; and the number of client and agency meetings that they were supposed to undertake, and that is sales. You said in November : “Nobody is selling or promoting the products”. I accept that you have taken out “promoting”, but you said that nobody is selling the products. I would challenge you again to think about what you said and about whether, actually, you were misleading our Committee in what you were telling us.

**Matt Brittin:** What I said was that the people were all promoting the products. They are definitely encouraging people to spend money on Google. You have asked me a lot of questions here and I would like to try to answer all of them, so let me take the sales staff—the staff in the UK who are seeing customers, who are encouraging them to spend money, who have targets across a range of customers for growth, and so on and so forth. You talked about the commission paid to one employee. Generally, I believe that the commissions that are paid to those employees are paid on a quarterly basis, so if you have one pay slip, you will see the total commission over several months.

**Q35 Chair:** I cannot believe this. This guy showed us—Amyas will want to come in—a monthly pay slip. He showed us his monthly pay slips; he did not show us a quarterly or an annual bonus. This is a monthly pay slip.

**Amyas Morse:** Can I make sure I understand the distinction? I hope that this is helpful. You have been talking about this vast number of sales that are done directly with Ireland. Can we characterise the nature of the sales that are not handled there, or which have UK intervention—if I can call it that to keep you comfortable about the language? These in fact are the larger and more complex buyers of advertising, and your people are involved in helping them to develop media plans, in talking to advertising agencies about what the appropriate media plans are, and they are

getting involved in devising the whole strategic approach to promoting the product. That is correct, isn't it?

**Matt Brittin:** Yes. Our team will provide as much assistance as they can to understand how the products that we have could help that client to grow their business.

**Amyas Morse:** I accept that what I call the automatic sales are all happening directly with Ireland, because you just key in and it happens, but these are the big fish in the business. That is why you bother going to the expense of having these people on the ground.

**Matt Brittin:** Correct. It is only the larger or more complicated customers, which is about 1%.

**Amyas Morse:** I do not regard it as contentious, it is just to clarify. The core of the business is these prestige accounts—the ones handled in a direct relationship. As I listen to your formulation of it, the issue is about the value creation. I heard what you said about the intellectual property, which although not created in Ireland, I do not think—I have not heard that argument—has apparently been transferred to Ireland for the purposes of billing and so forth.

The amount of business creation effort happening with these big accounts here in the UK sounds very substantial. This is not going away and a lot of people are hearing you and feeling sceptical. What the Chair said is true. She asked me to sit in on many of these people and they do not think that this is going to go away. There are a tonne of people who are listening and saying, “We think they are selling in the UK.” Clearly you think they have all got it wrong, because the billing is happening in Ireland.

**Matt Brittin:** We employ people with sales skills, and they meet customers and encourage them to spend money. Some of them have sales in their title. I am sure that customers will feel that they are being sold to by the teams and I would hope that they feel that the teams are encouraging them to spend money, but when it comes down to it—it is also the reason why I was so precise in my language both this time and last time—those activities are different from the closing of the transaction and the changing hands of money. That takes place with Ireland. This is not set up as a tax formulation; this is set up because this is how the model operates. People buy through this AdWords auction, which is a global technology platform that allows a person selling kilts from Scotland to advertise in front of anyone searching for kilts anywhere in the world. It is a big piece of technology that has been built and developed—it continues to develop—over 10 years.

The fact of the matter is that the technology is built outside the UK. Because of the nature of the auction price model—I accept that it is not just about price—the amount you spend is driven by how many of the people who are searching you want to appear in front of and how often they click on you. All the money side of things is determined by how that model operates. That is why we are set up in this way. We are dealing with a technology platform that allows you to reach anyone searching on Google anywhere in the world. That is why I am making that distinction as clear as I can.

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**Q36 Ian Swales:** Mr Brittin, can I ask whether you are aware—Mr Dixon may want to come in at this point—of a sentence in the HMRC guidelines on its website that says: “In the case of selling goods in the UK, there is likely to be trading here if in substance the selling takes place here even if formal conclusion of contracts takes place abroad.” Are you aware of that sentence?

**Matt Brittin:** I am not a tax expert, so I would not be familiar with those things. We obviously have tax advice, and HMRC asks us questions about how we operate. It has been asking us questions over recent years and I have answered its questions. HMRC has spent time with me and with senior and junior colleagues and it has spent time with people who see customers in the UK. It is able to ask us all those detailed questions.

**Q37 Ian Swales:** In the cases that the Chair is talking about, would you agree that in substance the selling is taking place here?

**Matt Brittin:** Because I am not a tax expert and you are talking about the specific guideline—

**Q38 Ian Swales:** This is not a tax question, this is a sales question. Would you agree that in substance the selling is taking place here?

**Matt Brittin:** Given the language you are using, the substance of the sale, when the money is spent and changes hands, happens at the moment somebody searches on the technology platform.

**Q39 Ian Swales:** Can I come on to that? Can you answer the question? Remembering the large contracts that the Chair is talking about, I will ask the question again: would you say that in substance the selling is taking place here?

**Matt Brittin:** As I said previously—

**Ian Swales:** Yes or no?

**Matt Brittin:** I think this all hinges on selling, and selling has a range of activities within it, which is why I am being precise in my language about the activities.

**Q40 Mr Bacon:** Of which the final one, Mr Brittin—once the agreement has been reached that a sale shall occur—the very, very final bit is the billing. You said yourself, did you not, that the customers feel they are being sold to? Did you say that?

**Matt Brittin:** Yes.

**Q41 Mr Bacon:** Why would they feel they are being sold to?

**Matt Brittin:** Because—

**Mr Bacon:** They are being sold to, that’s why. Why don’t you just call a spade a spade for once?

**Matt Brittin:** These people are called salespeople and they have sales skills, but for the purposes of the rules for taxation, which is what this question is all about—

**Q42 Mr Bacon:** That is exactly what Mr Swales was raising. His question was about the substance. If you want to get on to the rules, let us talk about Mr Swales’s question, shall we?

**Matt Brittin:** I have tried to describe very clearly what people actually do, because as I understand it, it is

what people actually do and what actually happens that is important here. What actually happens is that when people spend money with Google, they spend it on a technology platform that is built globally and that is owned in Ireland. The transactions are closed with Ireland, the billing is with Ireland and the technology is owned there, so the people in the UK cannot sell, because they do not own the property.

**Q43 Ian Swales:** That was my second question. When a client—you rightly said a lot of your clients, and I know many who never actually meet a Google salesperson—concludes a deal with your website, what jurisdiction are they concluding it in?

**Matt Brittin:** Ireland.

**Q44 Ian Swales:** Do you believe that they are contracting the sale in Ireland, or are they contracting the sale in the UK where they sit?

**Matt Brittin:** I believe they are contracting the sale in Ireland, with Google Ireland, and that would apply for every customer, of course.

**Chair:** Who negotiates the discounts?

**Q45 Ian Swales:** Sorry, I will just finish this point. So are you saying that things like the Sale of Goods Act, and all of those legal aspects, do not apply to your sales in the UK?

**Matt Brittin:** I am not a tax or a legal expert, so I will have somebody answer that question who is, but—

**Q46 Ian Swales:** Are you aware of case law in both the UK and the US that says that the place of the sale is the place where the customer is, not where the technology platform is? Are you aware of that?

**Matt Brittin:** I am not aware of all the detailed rules. I stand by what I have said in terms of the description of what activity takes place where, which is what you have been asking me about. To Mrs Hodge’s question, you asked again about price—

**Chair:** Ask the same question of Mr Dixon?

**Q47 Ian Swales:** Mr Dixon, on the two questions I have just asked, one quoting from the Inland Revenue instructions and the second one about place of business on an internet sale, I wonder if you would like to comment on those two points.

**John Dixon:** Okay. Obviously, what I cannot do is to talk specifically about Google’s affairs; I think I have made that clear to the Committee.

**Q48 Chair:** You could have if Google allowed you to this morning. Will you allow him to talk about you?

**Matt Brittin:** I do not commission our auditors; they would be commissioned by the board of Google—

**Q49 Chair:** Come on, this is naive. You are both here and we are talking about Google. I am not going to have this “I cannot talk about confidential things.” You are here to talk about Google.

**John Dixon:** If I can continue, Chair—

**Chair:** Well, you are here to talk about Google.

**John Dixon:** We have made it perfectly clear to the Committee that we are not able to talk about Google’s affairs—



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**Q50 Chair:** Why not? They are sitting next to you. If he says yes, you can.

**John Dixon:** We actually warned your Clerk just before the hearing that we were going to be in this position. However, let me try, on a theoretical basis, to help you with the examination that you are having here. This is not relevant to Google but it is relevant to the tax that you are talking about. Essentially, the situation that we are looking at here is an Irish resident company and the question of whether it is trading in the UK. The test that is formulated by the Irish-UK treaty says that essentially the Irish company is subject to UK tax on its profits if it is trading in the UK through a permanent establishment. That is the phrase that we used before. A permanent establishment, in the context of a UK service company providing services to the Irish company, which is the situation that I think has been explained here—again, I am talking in an abstract way—could be a permanent establishment of the Irish company if employees of the UK company have the authority to conclude contracts on behalf of the Irish company and they habitually exercise that authority.

So the first test is: do UK employees have the authority to conclude contracts? Is that authority habitually exercised? If the answer to either of those tests is no, the next question will be: do they get so close to the point of sale that in substance the sale is being made in the UK? That goes to a range of all sorts of factors that need to be taken into account. The question of labels—the names that you use—is actually irrelevant. The question of titles will be irrelevant. It is actually what people do, and how much of what they do lines up with the generation of the profit through the sale, as opposed to liaising with clients, making sure they are happy, making sure they are supported and making sure they understand the products. The point that you are grappling with right now is that line between liaison, supporting and making sure clients are happy, and actually getting so close to the point of sale.

**Q51 Ian Swales:** Let us just say that your description of liaison or keeping the client happy or after-sales service—whatever you want to call it—does not fit with people having sales targets and, in the detail that Chair talked about, commission-based selling. That does not fit with the idea of liaison and promotion. Would you agree?

**John Dixon:** Not necessarily, no. You have to look at all of the circumstances and facts from exactly what is happening, what the tone of the communications is, what is occurring, what is being said and how valuable that is. In the theoretical example I am painting, we have a UK service company whose role is to provide services to the Irish company. There are two tests that a tax authority would need to look at. One is: is the Irish company trading in the UK through a permanent establishment? Secondly, is the UK company being properly remunerated for the services that it provides?

There is another leg to the issue that you need to consider, which is: if the service company is providing real services that might get close to a sale but not quite be actually at the point of sale, one would expect

its remuneration to be higher than a pure, classic service company. There are two dimensions here: the selling and the services that are being provided.

**Q52 Ian Swales:** Can you answer the second question? If I decide to buy advertising remotely on a website—let's not say Google, but on a website that is based in another country—do you regard that sale as being in the other country or in the place where I am sitting?

**John Dixon:** From a tax point of view, it doesn't make any difference.

**Q53 Ian Swales:** It makes a lot of difference, because it determines where the transaction is taxable, doesn't it?

**John Dixon:** No, sorry, with respect, it doesn't. The question of whether the transaction is taxable essentially depends upon whether that non-resident company has a permanent establishment in the UK. As we discussed at the last hearing on this, the law is very clear: when trade is conducted through a website that is based outside the UK, and that website is owned by a company that can take advantage of a tax treaty with the UK, essentially there is no permanent establishment.

**Q54 Fiona Mactaggart:** Can I cite "Simon's Taxes", which I am sure that you are more familiar with than me? It talks precisely about this issue of a permanent establishment and activity that is of a preparatory or auxiliary nature, which is really your claim for why much of what Google does is not liable for taxes. It says that it is preparatory or auxiliary if the facilities are used for the purpose of "storing, displaying or delivering the company's goods, the maintenance of goods for these purposes" or for "processing by another person", or for "purchasing goods" or "collecting information for the company".

From the evidence that Mr Brittin has given us, it is clear that Google in Britain does much more than that. And it is also clear, from other evidence that he has given, that nobody concludes a sales price, because that is done by the technology, so it cannot be claimed that that is somehow happening elsewhere. He claims that the technology is owned in Ireland, but, as I understand it, it is actually owned in Bermuda and rented from Ireland. So it seems to me that, by the definition of "Simon's Taxes", under the double taxation agreement between the UK and Ireland, Google should be responsible for taxation on a very large proportion of this activity.

**John Dixon:** With respect, you are taking a little bit of "Simon's Taxes" slightly out of context. The issue about activities that are of preparatory or auxiliary nature is a specific carve-out in the OECD model convention for the general definition of permanent establishment. You still have to be in the position that the UK company has the authority to conclude contracts which it habitually exercises, or very nearly exercises, to create a potential PE for an Irish company in the circumstances that I have just described.

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**Q55 Fiona Mactaggart:** But Mr Brittin has said to us that technology concludes the contract. So in this mechanism—not necessarily in every case, and it might not happen for the 90% of little companies—but with the big companies where there is a developed relationship all the work that begins a sale, which is normally part of selling, seems to happen in the UK and then the technology works out the price. That seems to me to be the auxiliary activity.

**Chair:** I have to say that the other point that is not covered by that is the discount, because with large companies you negotiate—

**Matt Brittin:** As I mentioned earlier, in excess of 90% of—

**Chair:** I have to tell you, your sales people negotiate discounts in the UK.

**Matt Brittin:** Let me just be very clear with you: over 90% of the money spent by British business with Google is spent on an auction basis. There is no discount for large or small advertisers, so if there are any discount discussions, you are talking about much less than 10% of the revenue.

**Q56 Chair:** It doesn't matter. Discount discussions take place in the UK between your UK-based staff and your clients, full stop. That happens, Mr Brittin. I do not believe that people were lying to us.

**Matt Brittin:** I would love to answer that question specifically. As I say, in excess of 90% is auction-based. On the remaining small proportion, you are right. If you want to buy the front page of YouTube across lots of countries, there is a specific price for that, and there is a very tight rate card. The teams have very small parameters for any negotiation within that—

**Q57 Chair:** The team where? The UK-based team?

**Matt Brittin:** Anybody talking to a customer, whether in the UK or Ireland.

**Chair:** Which would be UK-based.

**Matt Brittin:** Or Ireland. They have the rate card and they have to stick to that. If they need to go beyond it, they have to get permission from outside.

Since you raised those questions about 2002, about which I did not have personal knowledge, I have been able to check the facts on that period of time. It is the case that, prior to the establishment of Google Ireland, all contracts from the UK would have been signed with Google Inc. and not contracted for the UK, so I have checked that.

**Q58 Chair:** I have to tell you that this was after you had established UK and Ireland, not before.

**Matt Brittin:** I will happily answer those questions, but I just wanted—

**Chair:** You established UK and Ireland in 2003. I want to bring Amyas in and then I will return to the whistleblowers.

**Amyas Morse:** Can I just make sure? The reason for the interest in the past—I accept that you were not there—is that it is significant, whether or not it was Google Inc., because it shows the fungibility of the arrangements. In other words, these were relationships created in the UK that, whoever they were with before, were then transferred across to be treated as

Irish accounts. I think that is relevant to the assessment. It is one thing to say, “We have these arrangements in place and here is the double tax treaty”—I have listened to it all and I understand what you, Mr Dixon, are saying—but does the origin of all these relationships not have a bearing? In other words, as we view the reality of the arrangements, how they started makes a bit of a difference. If these relationships were initiated under the current arrangements, I can I understand that argument. On the other hand, if sales relationships started early on and were built up in the UK and then transferred to Ireland—we will hear from you about how extensive that programme of transfers was—to then say, “We are now looking at a set of arrangements that have been migrated in” is a somewhat different state of affairs from just looking at arrangements that, so to speak, were there ab initio, isn't it?

**John Dixon:** Again, speaking hypothetically—

**Amyas Morse:** Yes, indeed.

**John Dixon:** I want to be very clear about that. This is a very complicated area of law, and it will very much depend upon the facts. There are a number of different scenarios that you could envisage that could have occurred at some point in time. If the activity of a UK service company is to liaise with clients, one could take the view that that liaison has continued. The question is whether a trade was conducted initially in the UK and then transferred from the UK. That would be a UK-taxable event, but that would be recorded in the books.

**Matt Brittin:** To clarify, that is the point I was clarifying. Trades were either conducted with Google Inc. or with Google in Ireland and not with Google in the UK. The trades have always been conducted with either of those two entities.

**Q59 Chair:** Were you in Sutton row?

**Matt Brittin:** Yes. The trades have always been conducted either—

**Q60 Chair:** After 2003?

**Matt Brittin:** I do not have the chronology, but—

**Chair:** I do.

**Matt Brittin:** What I am saying to you is that trades have not been completed with Google in the UK at any point. Trades have always been completed either with Google Inc. or with Google Ireland when it was established and licensed to sell the product.

**Q61 Chris Heaton-Harris:** So no invoices have been issued from the UK.

**Matt Brittin:** I believe that that would be the case, but I would have to check. If you have a specific thing, I will look at it. My understanding is that the trades are outside.

**Q62 Chair:** You should go back and check your own books. I am not going to divulge whistleblowers.

**Matt Brittin:** Of course. I do not want to ask that.

**Chair:** We have had some very principled whistleblowers come to us, and we are not going to put them at risk. You check your own stuff. You've got your own records.

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**Matt Brittin:** You wouldn't be putting them at risk, I can assure you, but I will happily check and answer any questions that you have. What I have said to you is that trades were concluded either with Google Inc. or with Google Ireland. We could have set up Google in the UK to trade as an entity and have trading entities in other countries. We set up Google Ireland, not Google UK, and Google Ireland has the intellectual property because we want to be able to offer our services to advertisers across the whole of Europe. We have people speaking 50 different languages in Ireland. That is an advantage to our customers in the UK and our customers everywhere else in Europe—

**Q63 Chair:** Mr Brittin, last time you at least had the grace to be honest and to say that you set up in Ireland because it is a low-tax jurisdiction. You said that in your evidence. Don't now pretend. If it is so great why aren't you based there? Why are you based in the UK?

**Matt Brittin:** I am being completely honest about how we set up. You are absolutely right. I said that we operated in Ireland, and when we chose where to operate the lower tax regime was one factor in establishing us in Ireland.

**Q64 Chair:** Why aren't you based there if that is your head office and you are in charge of the whole affair?

**Matt Brittin:** I spend my time wherever I need to be across Europe.

**Q65 Chair:** Why are you based in the UK? You told us last time that you pay UK PAYE? Why aren't you based there if the heart of the machine is in Ireland?

**Matt Brittin:** I happen to be British and enjoy living in London.

**Q66 Chair:** There are a lot of Brits who work all over the world. Certainly a lot of Brits work—

**Matt Brittin:** I don't have to live in Ireland. I can live where I want to live, where I can conduct the business from.

**Chair:** No, it depends. If you're—sorry, go on, Stephen.

**Q67 Stephen Barclay:** You mentioned a moment ago that some UK staff have a rate card. Is that the case?

**Matt Brittin:** For a small proportion of the money that is spent with us—less than 90%—there are products which are not auction-based. That is correct.

**Stephen Barclay:** So some UK staff have a rate card?

**Matt Brittin:** Yes.

**Q68 Stephen Barclay:** What do they have a rate card for?

**Matt Brittin:** It would be for the price of buying, for example, the home page on YouTube.

**Q69 Stephen Barclay:** So in essence it is a pre-authorised pricing plan on which they can discuss that?

**Matt Brittin:** Yes.

**Q70 Stephen Barclay:** Do they have any discretion in the use of that rate card?

**Matt Brittin:** As with any kind of advertising rate card, there will be a small degree of parameters around negotiation for volume.

**Q71 Stephen Barclay:** So within pre-agreed parameters, UK-based staff are able to discuss price with a client?

**Matt Brittin:** In respect of the less than 90% of revenues, that is correct. If they were to deviate from those parameters then that would need to be approved elsewhere outside the UK. They don't have the ability to commit Google UK Ltd into any contracts. They don't have the ability to conclude a transaction and no money changes hands, as I was saying earlier.

**Q72 Stephen Barclay:** Indeed, so going back to the crux of what the law is, Mr Dixon set it out in terms of one range, which is entering into a contract, but within the grey area that is one side of the grey area. The other end of the grey area is whether anyone has strayed beyond promoting into detailed negotiation. So what you are saying—we have HMRC in afterwards—is that someone who can negotiate on price, albeit within pre-agreed limits, and is based in the UK is not doing anything other than promotional activity?

**Matt Brittin:** I believe, and HMRC will be able to tell you this because they ask us questions and they can look at how we operate, that where we have very tightly defined parameters around price in any negotiations, any deviation from that has to be signed off outside the UK.

**Q73 Stephen Barclay:** No, it is a simple yes or no, surely. Either they are going beyond promotional activity or not. It must be your position, your very clear position, I would have thought, that they are not going beyond promotional activity, yes?

**Matt Brittin:** I don't understand the definition of promotional activity. If we are talking about all of those definitions within what selling is, all I can say is that they have to stick to the parameters that they have. They aren't able to override those parameters. Anybody buying advertising—in this case YouTube, for example—is buying a technology that has been developed outside the UK that it is not owned by the UK staff—

**Stephen Barclay:** No, we can come on to the technology. I'm sorry, but it really does not wash.

**Matt Brittin:** The words you are using don't help.

**Q74 Stephen Barclay:** I am quoting what the legal position is. You can't go beyond promotional activity. I am sure Mr Dixon would confirm that.

**Matt Brittin:** If that is the legal position—I am not so familiar; you have someone here who is more familiar.

**Q75 Stephen Barclay:** Mr Dixon, is there a grey area in tax law between what is promotional activity and what is concluding a sale?

**John Dixon:** Yes.

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**Q76 Stephen Barclay:** So the crux is whether an unspecified client within that grey area is in promotion or concluding?

**John Dixon:** It is a grey area. It depends on the facts. One needs to look at all of the facts that exist around the transactions with a particular client.

**Q77 Stephen Barclay:** Would you warn an unspecified client that they might be at risk of HMRC investigation if they had UK-based staff entering into negotiations on price?

**John Dixon:** So, in a hypothetical situation, the type of arrangements that you are seeing here are common. Lots of foreign multinational businesses set up UK operations in this way, and equally lots of UK companies set up these operations when they are trading overseas. So the issues that are going to be relevant to an inquiry in the UK will not be opaque. They will be very clear, and will be something that HMRC would look at as a matter—normally—of course. When they investigate the books and records of a UK service company providing services for an overseas multinational trading in the UK, then the question of what people in the UK do, and how close they get to the point of sale, and whether that creates a problem for the overseas company, will be something that will be front and centre in HMRC when they are inquiring on a UK company.

**Q78 Stephen Barclay:** Sure, but the fact that something is common doesn't mean it is necessarily right, as I am sure you would agree. Mr Brittin, could you just clarify: have HMRC ever seen the rate cards that the staff have?

**Matt Brittin:** I don't know, but HMRC have, as I mentioned earlier, asked questions of myself and a range of our staff, and of our tax people, and continue to do so.

**Q79 Stephen Barclay:** Did they ask you questions about the rate cards?

**Matt Brittin:** They met with me two to three years ago. I believe they asked questions about all of our products, their pricing and how they are sold. I can't remember exactly whether they asked to see rate cards with me specifically, but they asked very detailed questions about how we operate, what Google is selling, what the products are, how deals are structured, and so on—and we will continue to be transparent on any questions that they ask us, of course.

**Q80 Ian Swales:** Can I just ask a clarification question on Mr Barclay's question? You are the vice-president, operations, for—I think you told us—northern Europe, so do you have a role in finally agreeing the prices?

**Matt Brittin:** No, because, as I said, rate cards are defined on a global basis, because, for example, YouTube exists across the world, so all of that stuff has to be defined globally. Then for over 90% of the spend, it's an auction-based thing—so I don't have a role in either of those things. I can make some recommendations or suggestions on things, but those things have to be defined on a global level.

**Q81 Ian Swales:** So, if somebody in London decides to offer a discount, as we know they do, to a particular large client—who eventually agrees that that's okay? Because you are saying they don't.

**Matt Brittin:** Well, as I say, in respect of the vast majority of spend—

**Chair:** Mr Brittin, can we just be clear, is it spend or clients?

**Matt Brittin:** There are two things I have mentioned: one is that 99% of our customers are not interacting with people in the UK; the second and separate thing is that over 90% of the spend of all customers is auction-based.

**Chair:** Okay. Sorry to interrupt.

**Q82 Stephen Barclay:** What we are trying to establish is this: I think you used the word “outside” when you said that they have to operate within their rate cards, and if there is an exception to that they have to go outside.

**Matt Brittin:** That means that anything that would deviate from their parameters they are allowed to agree would need to be signed off outside the UK—not by me but in this case by somebody whose job it is to manage YouTube.

**Q83 Ian Swales:** But they are allowed to agree if they are sticking to the rate card?

**Matt Brittin:** Yes; if they stick to the parameters, they are allowed.

**Ian Swales:** They are allowed to agree the sale.

**Matt Brittin:** That is correct, yes.

**Chair:** I have still got more to do, but Meg wants to come in, and then Austin, very quickly, then I am going to go back to the whistleblowers.

**Q84 Meg Hillier:** It seems to me that if you ask someone on the 243 bus going round Silicon Roundabout, “Where is the sale taking place?”, the answer would be, “In the UK.” Perhaps you could just answer this question: of the total transactional discussion that anybody will have, from promotion through to actual sealing the deal and paying the money, what percentage of that happens in the UK, with a UK client?

**Matt Brittin:** For 99% of customers, none of that happens in the UK.

**Q85 Meg Hillier:** Right, but of the 1% where it does happen in the UK, what percentage of those transactions takes place in the UK—of the big companies? The final click may take place on a platform in Dublin, but—

**Matt Brittin:** The piece that takes place in the UK could be that we might come and meet with you and talk to you about how many people are searching for your product or category on Google; we might tell you, typically, how much might it cost to show up and pick up clicks on those words; we might talk to you about how profitable that could be, given how well your website converts that into sales for you; and our team could help you to understand what features of the Google products might help you to be effective. Many of the larger customers would then have a media agency who look after all of their advertising

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spend across TV and print and online. Many of them would then ask that media agency to execute a plan bringing together Google and all the other products that they could buy, and at that point they would be dealing with Google Ireland in terms of setting up any accounts, which they can do either themselves, through our interface, or through experts in Dublin.

**Q86 Meg Hillier:** So in terms of time spent, what percentage of time for Google is spent dealing with that 1% of clients in the UK and what percentage of time is spent by the people in Dublin?

**Matt Brittin:** I am not trying to be tricky, but is hard to generalise on this, so—

**Meg Hillier:** If not a percentage, find another way of measuring it, but in terms of the—

**Matt Brittin:** Well, typically, once somebody starts—once somebody builds—

**Meg Hillier:** What about remuneration? How much are the staff paid in the UK compared with the people in Dublin doing that final bit of the—

**Matt Brittin:** Sorry, how much are the staff paid?

**Chair:** How much commission?

**Meg Hillier:** Yes. Whichever way you want to measure it.

**Q87 Chair:** What commission goes to UK staff? What is the total commission take for staff in the UK, and what is the total commission take for staff in Ireland?

**Matt Brittin:** For the 1% of customers you are talking about, I wouldn't know the exact figures off the top of my head, but the UK staff will have some incentive associated with them and some of the staff in Dublin will have some incentive associated with them. For that 1% of customers, the people in Dublin will often be building a campaign—for example, which words are you trying to target, in which geographies?—and then they will be helping them to look at the data that comes back as people are clicking, and seeing how that is performing for them and providing advice on how to continue to optimise that. That build could then run for two or three years where people are continuing to spend when people are searching, and be providing advice and services on how to get more out of that campaign.

**Q88 Meg Hillier:** If I were BT and I came to see you and someone was my local negotiator in the UK, aren't you having quite a lot of discussion with that UK-based person before anything happens in Dublin?

**Matt Brittin:** It is hard to generalise. I would expect somebody like BT, who is a big customer, would probably interact both with people in the UK and with people in Dublin over a fairly continuous period, because this is, unlike a double page in *The Sunday Times* or—

**Q89 Meg Hillier:** But what I am trying to drive at is that a lot of it is taking place in the UK and continues to, so the relationship is building and developing and—

**Matt Brittin:** In the case of this 1% of customers, the UK team will continue to meet with those customers on an ongoing basis, because this is something which

is evolving and developing over time, and they are continuing to spend over time—

**Q90 Meg Hillier:** Where do they pay VAT?

**Chair:** We will come to VAT in a minute; Ian is going to lead on that. Chris.

**Q91 Chris Heaton-Harris:** I would like to ask a couple of questions on two different areas. We diverted around price, but having used Google AdWords—it is a cost per click, isn't it?

**Matt Brittin:** That's correct.

**Q92 Chris Heaton-Harris:** And you set your own budget?

**Matt Brittin:** Yes.

**Q93 Chris Heaton-Harris:** You can limit how much you spend, can't you?

**Matt Brittin:** You have all kinds of control. You can control how much you spend—the maximum amount you want to spend per day, per week or per month. You can control the amount per click you are prepared to pay, so if the auction gets too competitive for you and you say, "I don't want to pay more than 10p a click," you can cap that. There are a lot of controls over how you spend.

**Q94 Chris Heaton-Harris:** And you are saying that the cost per click—the price therefore is set in that auction, in the machine in Ireland, not where the physical click took place?

**Matt Brittin:** Yes, the price is determined by how many different advertisers—from all around the world, it could be—are appearing at the moment that you type, let's say, "kilt". All those advertisers who are bidding on that key word will be considered by the algorithm and show up, and if a consumer then clicks on one of them, it is only that advertiser who will pay and they will pay based on the parameters that they have determined and based on the auction intensity.

**Q95 Chris Heaton-Harris:** And the figures you have given us for the number of customers and whatever—the big number, the 90% of whatever it was, and the 99% of clients—they are the people who essentially, once they have worked out AdWords and things, do it all themselves?

**Matt Brittin:** Yes. Outside the 1% that we have talked about, the BTs and others, the vast majority of our customers—there are something like 2 million globally—will do it themselves. They will all have access, if they wish to, to telephone advice or to online help centres and, in the case of customers in the UK, that telephone advice and support will come from our team in Dublin, as I have described. They might want help. If you have used it yourself, you will understand it takes a little bit of time to understand how to work it. There are always new features that you might want to understand better.

**Q96 Chris Heaton-Harris:** I would like to ask a couple of questions about when you had your visit from HMRC, and the relationship between Google

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and HMRC. Obviously, Britain needs to attract big companies to the country. I guess one of the reasons is that we want you to be very successful and then pay tax in the country. How would you describe your relationship with HMRC?

**Matt Brittin:** Personally, I met them once two or three years ago, as I mentioned, and my experience was a robust and pretty detailed set of questions about how we operate, which I answered transparently and openly. They also asked to meet other colleagues, and I introduced them to people in the UK who were running our engineering teams, marketing and so on. They also asked to sit with some of the people who were seeing the 1% of customers—the BTs and others—and look at the materials that they showed those customers, and understand from them what they do with those customers. Of course, we let them do all of that. On an ongoing basis, HMRC will continue to ask questions, usually of our tax people—our tax team, who are in Ireland and in the US. I know that, on an ongoing basis, they are asked questions by HMRC and that open and transparent answers are provided.

**Q97 Chris Heaton-Harris:** Do you have a relationship manager based at HMRC, someone who deals with you on a regular basis?

**Matt Brittin:** I am not aware; I don't know. They have been looking at us for some time. In 2009, they were looking at transfer pricing, so I would imagine that there is some continuity in the questions that they are asking us, but I don't know. Obviously, you can ask them.

**Q98 Nick Smith:** Were you asked questions about the interaction between your sales team and UK companies? What happened there?

**Matt Brittin:** Yes. I actually explained, much as I have tried to explain to you, exactly who does what in the process. I also introduced them—I am happy to introduce you, too—to some of the people who are interacting with those customers. They sat with them and asked, "What materials do you show the customer? How does the process work?" Exactly what happens where, so they asked all of those questions, and our people were made available to them.

**Q99 Nick Smith:** Did they try to unpick how much time was spent with these top 1% of your UK companies and exactly what was done here in the UK and what was done in terms of finishing off sales in Dublin?

**Matt Brittin:** I believe so. I believe that was part of what they were looking at, because I think they were looking at transfer pricing and what services were provided in the UK, and what services elsewhere, yes.

**Q100 Nick Smith:** Did they challenge your head of sales in London about all of this?

**Matt Brittin:** At the time, that was me.

**Chair:** I want to cover some other issues in relation to Google. Ian has a final issue, then we have a couple of questions for Mr Dixon. Have you got a quick one, Justin?

**Q101 Justin Tomlinson:** What percentage of your sales is through agencies?

**Matt Brittin:** I think that, in the UK, it is 60% to 70%, but I would need to confirm the number.

**Q102 Justin Tomlinson:** I have just been on your website, as if I were an agency. I have a marketing background, and I see that I can get firm support to guide me through how I can then sell your products. Does that sales support telephone number go through to the UK or Ireland?

**Matt Brittin:** Ireland, but, as with BT and large corporate customers, if you will, we will also have relationships with the larger agency groups face to face here in the UK.

**Q103 Justin Tomlinson:** Yes, because presumably if I am going to sell quite a bit of advertising for you and I am based here in the UK, it is more convenient for me to get that support there.

**Matt Brittin:** Yes, we have what we call a reseller programme, so companies that provide marketing advice, for example, to small businesses might also ask if they can, you know, act and encourage them to use our—

**Q104 Justin Tomlinson:** To be clear, did you say 60% to 70% is sold through agencies?

**Matt Brittin:** Something that was spent by agencies, so, BT, for example, will ask an agency to buy all its advertising and that will be one of those—

**Q105 Justin Tomlinson:** And that agency will have got its support predominantly through the UK support team?

**Matt Brittin:** When the agency is executing the campaigns and so on, that is likely to be largely in Dublin, where the account management team exists. Distinct from the BT relationship, when the agency is trying to understand, "Well, how am I doing in terms of the accounts that I am working on with Google?", there might be some training that our team in the UK would provide to the agency to help it to get better—

**Q106 Justin Tomlinson:** Finally, I would need to sit an eligibility exam. Where would I do that? Or is it online?

**Matt Brittin:** There are accreditations that we can provide to people who are heavy users of the AdWords systems, for example. They can take those exams online. They can learn and train online. If they want to, people can do training in our offices. That would usually be provided to the larger agency or client.

**Q107 Justin Tomlinson:** That would again be in the UK?

**Matt Brittin:** If physical training is being provided, it would usually be in the market where the people are resident. Obviously, we have people outside the UK buying from us in the UK as well.

**Chair:** Austin, quickly, then I want to come back, then I have Steve and Ian. Then we are going to move to Mr Dixon.

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**Q108 Austin Mitchell:** You can't be telling the truth to us when you say that there is no selling in this country, and to the people responding to your adverts who are being told they are applying for jobs in sales. This is what the Reuters report says. I can imagine offices like Alan Sugar's—he's the boss, isn't he? They are all applying for important jobs with Alan Sugar. They go home and tell mum, "Mum, I've applied for an important sales job with Google," but they are not selling at all. Why are you lying to them?

**Matt Brittin:** I'm sorry. I didn't hear your question.

**Q109 Austin Mitchell:** Why are you lying in the adverts?

**Matt Brittin:** We are absolutely not lying in adverts. We are seeking people, often with sales skills, to do jobs—

**Q110 Austin Mitchell:** Not to sell.

**Matt Brittin:** To do jobs that entail a lot of what we have talked about, which are selling functions, right? So we have people in the UK who are doing lots of the aspects of selling, as I have tried to explain.

**Q111 Chair:** That is a movement.

**Matt Brittin:** No, no, it's not.

**Chair:** Thank you for that. They are doing a lot of the aspects of selling. Thank you.

**Matt Brittin:** If you read what I said before, we have people who have sales in their job titles. I have sales in my job title. We have people in the UK who are encouraging people—

**Q112 Chair:** How many people do you have who are doing aspects of selling?

**Matt Brittin:** Yes, completely.

**Q113 Chair:** How many in the UK?

**Matt Brittin:** Well, I gave you those numbers last time.

**Q114 Chair:** 400, isn't it?

**Matt Brittin:** About 300 in the UK who are the people who are meeting with the UK customers—

**Q115 Chair:** Who are selling.

**Matt Brittin:** And there are about 300 in Dublin who are providing remote telephone support and online support to those customers. That is all the information I gave you last time.

**Q116 Austin Mitchell:** That must make for a very disjointed, uncomfortable sales process. You have got the chat-up line—I can imagine a romantic situation—and the client is there. The salesman comes along and gives the pitch. The client is enthusiastic, inwardly, downwardly pulsating, "Google, Google!" At which point, the salesman leaves, a telephone rings from Dublin, and an Irish voice says, "What can we sell you?" I know Ernst and Young audits this sales process.

**Matt Brittin:** That would be strange if we were selling you a physical product, but what we are selling you—

**Q117 Austin Mitchell:** But you are selling a product.

**Matt Brittin:** We are not selling you a physical product.

**Q118 Austin Mitchell:** You are selling a product.

**Matt Brittin:** I am trying to continue my sentence. We are selling an ability to use a technology platform that can reach people searching on phones—

**Q119 Austin Mitchell:** It's schizophrenically selling it, partly here and partly there.

**Matt Brittin:** It's true that we have, for some customers, that set up. That is absolutely correct.

**Q120 Austin Mitchell:** Now, do Ernst and Young audit this process?

**Matt Brittin:** Yes. Ernst and Young audit it, and HMRC have asked us questions over time about it. We are totally transparent and open with you about it. There is no attempt to disguise what we do. People have sales in their titles. We seek people with sales skills.

**Q121 Austin Mitchell:** There has been a very strong attempt to disguise what you do.

**Matt Brittin:** I don't think so. I have explained the skills. I have explained exactly the steps to you and to HMRC. If you read my transcript from last time, I am saying exactly the same things as last time.

**Q122 Austin Mitchell:** It seems incredible that if HMRC examined it—you are indicating that they approve of it—Reuters can demolish it as easily as they did it in that massive article.

**Matt Brittin:** Reuters printed a correction to their story immediately that I pointed out that they had misrepresented what we did. As I mentioned, they lifted three words from us, and then they looked at some job descriptions and they looked at some people's LinkedIn profiles. I'm afraid that's not what is required to understand either how we operate or what's relevant for tax purposes.

**Q123 Austin Mitchell:** They didn't represent what you were selling and what you were doing?

**Matt Brittin:** I don't want to go into detail about the Reuters article. They printed a correction, and they printed corrections to subsequent articles to reflect better the reality of the situation.

**Q124 Chair:** I have to say, I thought they approached it with a lot of common sense. I am going to deal with two issues, and I am then going to go to Steve, then to Ian. Then we have some questions for Mr Dixon. I am conscious of time. I want you to explain something else to me from yet another whistleblower who gave me another document. This was an invoice that a company had received from Google. It was asking the company to pay in sterling. That would be correct?

**Matt Brittin:** It could be. I think advertisers can choose to pay in the currency they wish to pay in.

**Q125 Chair:** No, it was asking them. They were billed in sterling.

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**Matt Brittin:** That would likely be because they had chosen to spend in sterling with Google. Obviously, people can spend in all different currencies because we—

**Q126 Chair:** And then they were asked to pay the money into Citibank in the Strand, London.

**Matt Brittin:** I don't know what that would be, but I will happily answer the question if you give me the specifics.

**Q127 Chair:** No. Do you know, you keep saying that? I am absolutely not going to betray the confidences of very, very principled whistleblowers.

**Matt Brittin:** I don't want you to betray confidences, but it's very hard to know what you are talking about.

**Q128 Chair:** You must know what happens in your business. It seems to me, yet again, that if companies are being asked to pay in sterling to Citibank in the Strand, that feels like a sale in the UK, not a sale in Ireland.

**Matt Brittin:** I don't know what that is in respect of. All of our advertising is sold via invoicing from Google Ireland, which is where we own the rights to sell the property.

**Q129 Chair:** This invoice did have a Google Ireland address on it, unlike the previous invoice, but it was asking for payment in sterling to a bank in the Strand.

**Matt Brittin:** I don't know what that is.

**Q130 Chair:** The final thing is, you said in answer to Justin—Two more things, then I will go to Stephen. You said in answer to Justin that most of your clients are ad agencies.

**Matt Brittin:** Many of our clients spend through agencies that buy all their advertising for them.

**Q131 Chair:** Yes, 60% I think you said. So how do you explain the findings of a survey of media buying and digital organisations by *The Drum*? They said, "Almost 80 per cent of respondents said they dealt with London when buying Google advertising. Around 14 per cent said they used Dublin, the remainder said they did not know. When asked what they considered was the primary role of Google's London advertising team 80 per cent said it was sales. 17 per cent said it was support. When asked what they considered they were doing when dealing with Google's London team 76 per cent said they considered they were buying from them. 17 per cent said they were receiving general advice... When asked whether they believed Google should pay more tax in the UK 83 per cent said they should." Isn't the customer right?

**Matt Brittin:** I've not seen the survey. It doesn't surprise me that these people feel that they are having a sales interaction with our team, because I have explained what the team are doing. That sample sounds like it's a sample of people who are working with our larger customers, which is what I've explained here.

**Q132 Chair:** It is media buyers.

**Matt Brittin:** Yes, so that is likely to be those people who are working with our larger customers. As I say, I have not seen the survey or the questions that were asked.

**Q133 Chair:** Is the customer right?

**Matt Brittin:** We try to do the best. When you look at our contribution and what we are doing in the UK, we are helping businesses grow online. People are investing money with us only when it helps their business grow by more than the money they invest with us.

**Q134 Chair:** This is not answering the question, with the greatest respect. We are running out of time. Is the customer right?

**Matt Brittin:** In respect of what?

**Q135 Chair:** When they do business with you, they are doing business with the UK-based team. Is the customer right or wrong?

**Matt Brittin:** Yes, they are doing business with the UK-based team, but I stand by everything I have said about how they buy advertising.

**Q136 Chair:** They think the UK-based team are selling to them. Are they right or wrong?

**Matt Brittin:** The UK-based team are selling, but they are not closing the transaction. No money is changing hands. That is what is relevant.

**Q137 Chair:** No, we all accept the billing is in Ireland, but they are being sold to by London.

**Matt Brittin:** But the key thing from an HMRC perspective is not the description; it is the function. It is the money that changes hands in Ireland where the technology—

**Chair:** So Google is right and the rest of the world is wrong.

**Q138 Fiona Mactaggart:** Would you be able to provide to the Committee, after this hearing, the relative amounts of commission that are earned by people based in Ireland and people based here? You said you could not answer that earlier.

**Matt Brittin:** Yes.

**Fiona Mactaggart:** That would be very helpful, thank you.

**Matt Brittin:** Proportionately, there are about 300 here and 300 in Ireland who are working with customers, so it is likely to be somewhat—

**Fiona Mactaggart:** Just the relative commission.

**Q139 Chair:** I just want to raise another issue, which I think Steve then wants to develop. One of the whistleblowers we met talked about what goes on in your very smart premises: Belgrave House in Buckingham Palace Road. Am I right that it is occupied by systems developers who are working on, among other things, developing the Android telephone management system? So can I now remind you again of evidence you gave in November when you said, in answer to question 512, "The people in the UK are not doing the innovation... they are not doing the product



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development”? Would you like to rephrase that assertion?

**Matt Brittin:** I think I also provided answers that explained that the UK people were doing sales, marketing and R and D support. I also referred to the close to 500 engineers who are contributing to the building of the product. Let me explain further, because I want to be clear on this. We like to hire engineers outside California, and we do. When I started at Google, I think there were zero. We now have 500. Hopefully, we will get to 600 engineers in the UK. Those engineers are all contributing to products that are being built globally.

**Q140 Chair:** Are they developing products?

**Matt Brittin:** They are contributing to the development of products, absolutely. There are 600 of them, but, materially, 17,000 in California. The leadership of the products that are being built is in California. There is a particular expertise in London, which we are proud of, around Android, which is an operating system for smartphones. Our team there are contributing to the development of that platform, but that is part of a global effort—

**Q141 Chair:** I am grateful for that. I want to stop you there, because that is different from what you said to us on 12 November, when you said that they are not doing product development. What you are now saying to us is that they are contributing to product development. I am grateful for that, and I think again that clarifies whether or not, Mr Dixon, there is—What activity is taking place.

**Matt Brittin:** Can I just come back to you? You are saying that I am saying something different now. If you look at the written answers that we provided and the answers we provided, you will see that I said that in the UK we are doing sales, marketing and R and D support, and I talked about the number of engineers last time as well.

**Q142 Chair:** No, what you said last time—I am quoting verbatim—was: “The people in the UK are not doing the innovation... they are not doing the product development”. What you are saying to us today is that they are contributing to product development.

**Matt Brittin:** I think that is consistent with other remarks I made. You are mentioning one quote, when I think I was talking about international taxation, which requires us to understand where the economic value is created. In that context, I was describing how 17,000 engineers and all of the leadership of our product is in the US. That is the point I was making for that question.

**Q143 Stephen Barclay:** On that point, where is the intellectual property owned on the work those engineers are doing?

**Matt Brittin:** I think it depends on the specific projects that they are working on. The intellectual property for Google is licensed, as you know and referred to earlier, to Google Ireland, in order that Google Ireland can sell that aspect of the product that is saleable—the advertising platform.

**Q144 Stephen Barclay:** So some of the intellectual property is owned in Ireland on that work?

**Matt Brittin:** Ireland have the right to sell those products.

**Q145 Stephen Barclay:** Is some of it also owned in Bermuda?

**Matt Brittin:** Yes.

**Q146 Stephen Barclay:** Okay. In reply to question 480 last time, you said: “Tax law suggests that you need to pay tax where the economic value is created”. Are they not creating economic value?

**Matt Brittin:** Who?

**Stephen Barclay:** Those engineers.

**Matt Brittin:** Oh, yes, absolutely. In terms of the engineering work that is done in the UK, the cost of that work and a premium for it are paid to Google UK by Google Ireland.

**Q147 Stephen Barclay:** So what you are saying is that the economic value for those engineers is created in the UK, but the IP is owned either in Ireland or in Bermuda.

**Matt Brittin:** Yes. For example, Android is led from California and they are contributing to that, so the IP is owned there.

**Q148 Stephen Barclay:** Yes. We are just trying to clarify. Do you have any agreement with the Irish authorities in respect of withholding tax?

**Matt Brittin:** I would need to come back to you on that question.

**Q149 Stephen Barclay:** So you are not aware?

**Matt Brittin:** I am not aware that we have any special agreements with the Irish.

**Q150 Stephen Barclay:** Right. What tax rate do you pay on transfers from Ireland to Bermuda?

**Matt Brittin:** I don’t think we pay a tax rate on Ireland to Bermuda. We talked about Bermuda in the last hearing, and I confirmed that we do use Bermuda. Obviously, Bermuda is a low-tax environment.

**Q151 Stephen Barclay:** Sure. So, what, you just transfer from Ireland to Bermuda without any tax implications?

**Matt Brittin:** I would need to check, but I think that is my understanding.

**Q152 Stephen Barclay:** Mr Dixon, talking about a hypothetical client, if you were advising a client in Ireland, obviously they could transfer within the EU, as I understand it, through the parent subsidiary directive. Could you clarify for the Committee what the tax implications would be of a transfer within the EU and a transfer to a jurisdiction like Bermuda?

**John Dixon:** I am not an expert on Irish taxation, but in terms of what I understand the position to be, for certain types of royalties paid by an Irish company outside of the EU there is no withholding tax. As far as payments within the EU are concerned, again, there would be no withholding tax, but the payments would be governed by transfer pricing rules, obviously, so

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actually there can't be more than an arm's length price for the IP that is licensed.

**Q153 Stephen Barclay:** Fine, thank you. Mr Brittin, going back to our last hearing, I asked you about your SEC filings. At the time, you were not able to answer, but, as you have repeatedly referred to going through the transcript, I presume you are now in a position to do so. Just to refresh your memory, what I pointed your attention to last time was that the income from foreign operations in your SEC filing was \$7.6 billion—this is for year 2011—but the foreign tax paid was just \$248 million, and none of that was deferred. Would you like to comment on that now that obviously you have had an opportunity to refresh your memory?

**Matt Brittin:** Yes. There are a couple of things, I guess. First, Google is obviously a growing business, and therefore we are investing a lot in that growth, which includes things like data centres and R and D investment. The cost of developing all of this stuff is being invested in now. The revenue that flows from the benefits of all that stuff will come later, in the future, so that is one thing that impacts on profitability. In respect of Bermuda—I think this is what you are alluding to—we use Bermuda for tax purposes. If we were to shut Bermuda, it would not have an impact on the tax we pay here in the UK. We use it in common with thousands of—

**Q154 Stephen Barclay:** The crux of my point is that you are depriving the US taxpayer of significant funds, because this is economic activity in the US, and technology developed in the US, which I presume was then sold to an operation in Bermuda, probably in 2001 or 2002. The tax you save on that deprives the US taxpayer of significant sums. The significance to us in the UK is that the tax you save on those non-US profits is then used for a competitive distortion to allow you, in essence, to compete against UK companies, because you have a huge amount of profit on which you are not paying tax.

**Matt Brittin:** No, I don't think that is right. The money that goes to Bermuda can be used for funding our growth outside the US, so that money can be used for R and D expenses, acquisitions and investment in data centres or buildings. In fact, since we met last time, we have committed £1 billion to investment in King's Cross to increase our presence in the UK, and we could fund that from Bermuda. Thousands of companies, including many British companies, use arrangements such as ours in Bermuda, which allow us to invest in the growth of our business outside the US. Large sums are spent on R and D, acquisitions, investments in buildings and, as I have mentioned, we have just committed to King's Cross.

**Q155 Stephen Barclay:** But that is my exact point, Mr Brittin. The economic value in this technology was developed in the UK. You have sold it to Bermuda, so profits are generated on that technology in countries such as the UK, but you do not have to pay tax on them in the US; they go back to Bermuda, and you then use them to fund growth activities in the UK. You are right that British companies do that, but they

are multinational companies. The competitive distortion is that solely UK-based non-multinational companies are at a massive disadvantage, because you have profits on which you are not paying US tax, which you can then use for your R and D. That is a huge competitive distortion against the UK market.

**Matt Brittin:** If Google were British, we would be operating on a similar basis to British companies. It is true that as an international company we have to set up where the economic value is greatest, as I have described, but if you look at how we operate in the UK, we are not selling a product alongside a British company that is selling a product. We are offering technology that allows businesses to expand and grow. We know from independent research that businesses that are online, and are doing online marketing such as ours, are growing two to four times faster than those that are not. It is the thousands, tens of thousands, hundreds of thousands of small businesses that are using this technology to reach customers around the world that are growing. That is what we are contributing, in terms of what we are doing in the UK. We are not forcing other companies out of business; we are providing tools that are more efficient and more scalable than any that anyone has ever had before to drive the growth of businesses, and to drive sales to customers around the world.

**Q156 Ian Swales:** May I turn to what is more or less our final issue? Can you tell us what your VAT arrangements are, please?

**Matt Brittin:** I am not an expert on that. Customers pay VAT on advertising that they buy from Google, depending on the VAT rate in the country in which they are based. Google pays VAT on what we buy, whether that is premises, facilities, services or whatever.

**Q157 Ian Swales:** Do you know how much VAT you paid to the UK Treasury last year?

**Matt Brittin:** I don't know.

**John Dixon:** Would it help if I explained the VAT in-principle arrangements that would exist in the hypothetical situation that we have been talking about? Essentially, we have two flows. We have charges by the UK service company to Ireland. They would be outside the scope of UK VAT and would be self-accounted in Ireland for Irish VAT purposes. On the supplies by the Irish company back to UK business customers, there would essentially be no Irish VAT, and UK customers would self-account for UK VAT on those sums. There is no VAT leakage in those arrangements.

**Q158 Ian Swales:** Are you saying that when the hypothetical company based in Ireland sells to a UK customer, it pays no VAT?

**John Dixon:** The VAT would be paid by the UK customer.

**Matt Brittin:** VAT is payable on sales.

**Q159 Ian Swales:** Yes, but you are doing the selling. They are not doing the selling; you are.

**John Dixon:** For these particular arrangements, essentially what happens for a business customer who

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is receiving this type of supply is called the reverse charge. It is a self-accounting mechanism that the UK customer will account for, which means they account for the VAT. It is well tried and tested. It is the basic law.

**Q160 Chair:** So the invoice I was talking about that was paid for in sterling would have the VAT element to it, would it?

**John Dixon:** It would be self-accounted—

**Q161 Chair:** What do you mean by self-accounted?

**John Dixon:** The customer would account for the VAT on the invoice that has been charged by the Irish company.

**Q162 Ian Swales:** Hold on. I am a business customer in the UK. I buy a service from you. Where is the VAT on that transaction? I am buying the service; I am not selling it.

**John Dixon:** Yes, but the way the mechanism works is that the UK customer will self-account for the VAT. In its VAT return, it will have an input tax and an output tax for the amount of UK VAT on that supply from Ireland.

**Q163 Chair:** So Google don't pay? Google don't levy it?

**John Dixon:** No. What would happen—

**Chair:** Sorry, your unspecified client.

**John Dixon:** Yes, my unspecified client. The situation here is that the Irish company will account for VAT on the supplies by the UK service company, in the same way that the UK customer will account for VAT on supplies by the Irish company. There is no VAT loss here.

**Q164 Ian Swales:** Let us put this in numbers. I buy £100-worth of services from Google; tell me about the VAT. What actually happens then?

**John Dixon:** Essentially, UK VAT will be charged on that supply by—

**Q165 Ian Swales:** By Google?

**John Dixon:** No, by the customer. The customer will take the VAT and account for it as if it had been charged by the Irish company.

**Q166 Ian Swales:** So if I buy £100-worth of services from Google, I account for it as if I have paid £120. Is that what you are saying?

**John Dixon:** Then 20% VAT would be charged on the £100. It would be accounted for in the books of the UK customer.

**Q167 Meg Hillier:** So the VAT would be charged at the UK rate, not the Irish rate?

**John Dixon:** For a business customer, it would be charged at the UK rate. For a private client—

**Q168 Meg Hillier:** So that means the transaction is taking place in the UK, surely?

**John Dixon:** VAT is a very different rule from corporation tax. Essentially, for VAT purposes, a business customer in the UK will self-account for the

VAT at the UK rate on the supplies by the Irish company.

**Q169 Ian Swales:** Is it not the case that a pan-European business, like this hypothetical company we are talking about, should account for VAT in each of the countries in which it trades, and pay the VAT to the authorities in each of those countries?

**John Dixon:** No. On supply of this type of service—the sale of advertising is a service—the EU rules work in exactly the way I have just described: the customer accounts for the VAT in its VAT returns in its domestic rates of VAT. VAT is not charged by the Irish entity.

**Q170 Ian Swales:** So are you saying that the customer has a deduction for that VAT?

**John Dixon:** And a supply at the same time, in the same way as if the UK customer had been charged VAT, recovered that VAT, and on-charged it in its services to its customers. It is the same effect by the reverse charge mechanism.

**Q171 Ian Swales:** So on the added value that Google is providing, and effectively the profit element that Google is earning in the UK, we do not see the extra VAT. If Google were based in the UK they would be paying more VAT, wouldn't they?

**John Dixon:** No. The VAT is charged on the invoices by an Irish company at the UK rate. It would be exactly the same as if the invoice had been issued by a UK company to the UK customer. That is the point.

**Q172 Ian Swales:** Okay, so you charge it, but we never see that money.

**John Dixon:** VAT is essentially a collection mechanism that gets passed on to the end consumer. It is exactly the same in this situation.

**Q173 Chair:** I just want you to clarify two things, if you can, Mr Brittin; then I want to ask you some more questions, and then, hopefully, we are almost drawing this part of the session to a close. Can I get clear in my brain what proportion of Google's UK revenue comes from the customers—the 1% or whatever it is—who work with UK-based sales staff? What proportion of the revenue—

**Matt Brittin:** Just to clarify, you are asking what proportion of the spend of all British companies with Google comes from the larger customers. I think it would be something along the lines of 60% to 70%.

**Q174 Chair:** Around 60% to 70%?

**Matt Brittin:** Yes, because there you are talking about the BTs, the banks and the Marks & Spencer.

**Q175 Chair:** So 60% to 70% of the revenue comes from customers who have contact with UK-based staff.

**Matt Brittin:** Or through the agencies that I mentioned. It is that order of magnitude.

**Q176 Chair:** Can I ask you to confirm something? Fiona has raised this matter. What is the relative proportion of commission that is paid to UK-based staff, compared with Ireland-based staff?

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**Matt Brittin:** As I said in response to Ms Mactaggart, I do not know that information off the top of my head. Crudely, there are about 300 people in the UK, whom we have been talking about, dealing with customers, and about 300 people on the phone and on the internet in Dublin. I would imagine that there would be a bit more towards the UK folk than the Dublin folk, because of the experience level to deal with BT, rather than a shoe shop in Birmingham.

**Q177 Stephen Barclay:** You said that there are 300 or so on the phone in Dublin, but the ones in the UK, presumably, are doing more face-to-face work, plus work at the more sophisticated end. Logically, it would suggest that the commission is skewed quite significantly towards the UK side, compared with the Ireland side.

**Matt Brittin:** It is about the same number of people. I think that the people in the UK who deal with the larger customers are likely to be more experienced. Therefore they may, in order to hire and motivate them, have a higher element of commission. I will confirm the specifics.

**Q178 Stephen Barclay:** So is it reasonable to conclude that you are paying significantly more commission to your sales staff in the UK than to the sales staff in Ireland, who are the people making the official sale?

**Matt Brittin:** It is possible. Let me confirm the facts for you, rather than speculate.

**Chair:** But they are not selling.

**Amyas Morse:** The 300 people in Dublin you mentioned, are they looking after just UK accounts?

**Matt Brittin:** Those are the people who are specifically focused on UK customers.

**Q179 Chair:** Mr Dixon, you have been helpful. Can I ask you a basic question? Do you accept that, when you are ensuring that accounts are a true and fair description of your hypothetical company, you have to have regard to substance over form?

**John Dixon:** Let me explain the way we would approach the audit of a large multinational company. Essentially, our obligation as auditor is to ensure that there are not material misstatements of the financial statements that we are auditing. In the context of tax, for a large multinational company that is listed in an overseas exchange, our audit processes specifically mandate that we look at the question of whether that company is trading in other jurisdictions through a permanent establishment. As I said in the previous hearing, we will specifically address the question of what is happening on the ground, in order to assess the various points that you as a Committee have heard today about the intricacies of liaison versus sales, and what that means in the context of what people do, in order to satisfy ourselves that we do not have a material tax liability that is not recorded in the books.

**Q180 Chair:** Okay. I think we are probably in the same place. Reading from one of your manuals that inform the accountancy profession, "Substance over form is an accounting concept which means that the economic substance of transactions and events must

be recorded in the financial statements"—you agree with that—"rather than just their legal form in order to present a true and fair view of the affairs of the entity. The substance over form concept entails the use of judgment on the part of the preparers of the financial statements in order for them to derive the business sense from the transactions and events and to present them in a manner that best reflects their true essence."

**John Dixon:** With respect, I am not an expert on auditing. I am a tax partner, so I can talk specifically about how we would look at an audit from a tax perspective. I have tried to clarify that particular issue.

**Q181 Chair:** I am reading from what is the basis. Just to clarify, you helped Google design their company structure, as well as advising them on other issues. Did you help design their company structure?

**John Dixon:** I am not able to talk about—

**Q182 Chair:** Would you help design hypothetical company structures of this nature?

**John Dixon:** For some companies, we would. For some, we would not. For some, we purely provide a statutory audit service. For others, we would do some tax planning work.

**Q183 Chair:** Mr Brittin, did they help you design your company structure?

**Matt Brittin:** I do not know. The company structure was set up before I joined Google. It was set up by legal and tax experts. I am not a legal or tax expert; my job is to run—

**Q184 Chair:** In preparing for today's hearing, you did not think that was a relevant question to ask?

**Matt Brittin:** I expected to be asked, as I have been, lots of questions. Who designed the company structure when it was set up in 2002 was not one that I checked into, but I will happily answer that and any other questions in writing afterwards.

**Q185 Chair:** That seems to me a slightly devious answer, which I regret, but there we are. That is how you have chosen to answer it.

**Matt Brittin:** Let me try to be clearer, because I would not like you to think that I was trying to do anything other than answer your question.

**Q186 Chair:** It is an obvious one. You knew you were appearing with Mr Dixon, and you would have thought that we would be interested in this.

**John Dixon:** We made it very clear before the Committee hearing that I was not going to be able to talk about what we do for Google.

**Q187 Chair:** I understand that, which is why we were talking about hypothetical companies.

**John Dixon:** And I have answered the hypothetical question, I think.

**Q188 Chair:** Mr Dixon, the last time you appeared before us, when we talked to you about hypothetical companies and others, I asked you this: "Can I just say to you, Mr Dixon, when you do Google, for

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example”—a hypothetical company—“do you, the auditor”—I accept that you are a tax expert, but the company as the auditor—“walk around their office to see whether or not what you sign off as fair and true is what is actually happening in the UK base? Do you walk around that office? Do you sign it off in that way?” Your answer was: “Generically, if we are looking at a tax-planning structure that has been adopted, then yes.”

**John Dixon:** Absolutely, and I fully stand by what I said at that time. If we look at how we would approach the audit of a multinational company, particularly in the circumstances that have been the subject of this discussion today, the work that we would do would be to analyse precisely what people do and how they do it. We would be interrogating e-mails, and we would have interviews with staff members if we found that there was some evidence that was contradictory to what we thought. We recognise that the question of a liability will very much depend on the facts that occur, and facts change on a year-to-year basis. This is something that our audit processes specifically ask us to focus on for this type of company, so I can only say yes, to answer your question.

**Q189 Chair:** Okay. If that is the case, from the evidence that you have heard today and the evidence that we presented to the Committee, particularly from whistleblowers, were you to get that sort of evidence in a hypothetical company about the sort of work that UK-based sales staff were undertaking for a company, would you have a question mark over the substance, rather than the form, of what a hypothetical company was presenting to you? Would you question that before you signed off their accounts?

**John Dixon:** We would use any data points, in terms of looking at the facts before us. If evidence comes to light through any source that suggests that things are going on that we were not aware of, that would help inform the approach that we would take to an audit.

**Q190 Chair:** Some of the documents that we saw were pretty standard documents. They were sales manuals and documents that staff used, which informed their day-to-day work. As we have said to you, we also looked at monthly payslips. This is not rocket science or hidden-under-the-desk stuff; this is, I would have thought, pretty standard stuff that your company, as an auditor, might, in this hypothetical situation, examine, and therefore ask questions about, as to where the substance, rather than the form, was occurring.

**John Dixon:** And when we receive that information, or that information is uncovered through the work that we do as part of our audit practices, yes, that would cause us to ask further questions. Let us just refer back, however, to the discussion that we have had this morning. The question of whether—in this particular situation—an Irish company is trading in the UK through a permanent establishment is a very difficult question based on fact. Some of the facts that have been uncovered in this hearing today are, frankly, not relevant to the question of whether an overseas company is trading in the UK through a permanent

establishment or not. The titles that people use, the question of the currency that is used for an invoice, the question of which bank account is the recipient of funds—those sorts of things are actually not relevant. The issues that are relevant are about what people actually do on a day-to-day basis. Our audit methodologies will be very much focused so as to check exactly what is actually occurring in fact.

**Q191 Chair:** To be frank, I gave you a minor bit of the evidence; the main bit is what people are actually doing. I accept that it is a minor bit, but I think that it is symbolic of what is actually happening on the ground here in the UK. What I am really questioning is your judgment, in the end. It is not fact; it is a judgment of the facts, which you have to undertake to come to a view on. I cannot imagine being an auditor for your company, or for any of the companies, and walking around the hypothetical company—around Buckingham Gate, or the one up near Centre Point—looking at the documents that inform what people do day by day, and looking at pay slips, and thinking, “Actually, these guys aren’t selling.”

**John Dixon:** I can only reiterate what I have just said, Chair. When we are auditing a large multinational company where there is a potential permanent establishment issue, we will want to look at what exactly is going on, what is actually occurring, and what people are doing with clients. We would trace back from an invoice to the customer, right the way through points, to make sure that we are not tripping over the grey line between procurement and sales.

**Chair:** Okay. Guto, Austin and Stephen, and then I am going to draw this bit of the session to a close.

**Q192 Guto Bebb:** Specifically on the issue of job titles, you made it very clear that in your view the job title was not relevant; it is what the individuals actually do that is important. The fact is that it would appear that many people who work for Google believe that they are involved in selling a product or service, and in actually closing the deal. As an auditor, what type of work would you have done to ensure that that was not the case, and that you were confident that they were not engaged in that type of transaction, in a hypothetical scenario?

**John Dixon:** In a hypothetical situation, we would look to see the communications between the individual employee and the customer, to see what is actually going on, what is being discussed and what decisions are being taken. We would look to make sure, in terms of the exposure that this discussion has been around today, that sufficient activity is happening outside the UK, in terms of real decisions that are being taken; at where the sale is being made; and at the question of whether a permanent establishment exists. It will be the data points about what people do, vis-à-vis their customers, that will help to inform us on that judgment.

**Q193 Guto Bebb:** In view of the fact that we have an 11,000-page tax code, which particular part of that code would be guiding you on that issue?

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**John Dixon:** The principal guidance would be article 5 of the Irish-UK tax treaty. That would be the main area that we would be looking at.

**Q194 Guto Bebb:** Again, if you saw a hypothetical company with a structure similar to what has been put together by Google, would you be of the view that it was primarily a structure that was created in order to minimise tax liabilities in a fairly clear manner?

**John Dixon:** It certainly has the effect of minimising taxes; that may not necessarily be the overriding purpose behind why the arrangements are put in place. Centralisation of activities is something, particularly for foreign multinationals coming into the European area. They will want to set up a European trading hub to centralise risk, management and reporting. The types of structure and arrangements that we have heard about today would be entirely consistent with what lots of multinationals do, but yes, there is a tax advantage, in the context of the differentials between the UK and Irish rates, where we have an Irish company with a UK service company.

**Q195 Guto Bebb:** To clarify, are you a member of the Institute of Chartered Accountants in England and Wales?

**John Dixon:** I am not, actually. I am a member of the Chartered Institute of Taxation.

**Q196 Guto Bebb:** In relation to the issue of tax avoidance being legal, the other night I was having dinner with the Institute of Chartered Accountants in England and Wales, and the president made the point that, while tax avoidance is obviously legal, accountants have an obligation to take into account the public duty as well, because there is an ethical code that must be taken into account. What sort of steps would you take to ensure that that obligation to public duty is taken into account when you are auditing the accounts of a multinational company that is managing to pay a 2.4% tax rate on its overseas earnings?

**John Dixon:** We have our own code of conduct, a global code of conduct that we apply to all the things that we do. In terms of looking at and advising companies on tax planning, we will want to make sure that that planning is fully disclosable, based on substance and a real interpretation of the law. Increasingly, we will talk to companies about the reputational issues involved, essentially, in the planning structures that they would undertake. Our role as auditor is very different; it is to attest the financial statements and come to a view about whether they show a true and fair view of the state of the affairs of the business.

**Q197 Austin Mitchell:** Mr Dixon, did Ernst and Young, as auditors to Google, devise this scheme for saying that sales people were not sales people but marriage counsellors, thereby avoiding taxes? Was that devised by Ernst and Young as advisers to Google?

**John Dixon:** I think we have already covered that question, Mr Mitchell, and I am not able to talk about what we do for Google.

**Q198 Austin Mitchell:** Will Mr Brittin allow you to give us the details of what was done at that time?

**Matt Brittin:** As I understand it, Ernst and Young are our auditors and they therefore report to the audit committee of Google's board. My understanding of their role is that they audit our accounts globally in 50 different countries. I am not aware of a role in taxation, but it is not my job. I am not on the board of Google or the audit committee of Google—

**Q199 Austin Mitchell:** But hypothetically, Mr Dixon, since you seem to like talking that way, you could have devised this scheme of tax avoidance and you could have gained a fee from Google for selling it to them—hypothetically.

**John Dixon:** There are situations where we advise companies on tax planning strategies, yes, and we receive fees for those services.

**Q200 Austin Mitchell:** Well, in that hypothetical situation, would it be the responsibility of Ernst and Young, or the hypothetical big four member that is selling it, to clear that scheme with HMRC and to see that HMRC accepts its validity?

**John Dixon:** In a situation where we provide tax services to companies that we audit, it is important to make one point very clear right up front, and that is that the team that is involved in giving tax advisory services will be very different to the team that is involved in the attest function of auditing a financial statement. Let us get that point clear. As far as the work that has been done in terms of an advisory capability, either on an audit client or not on an audit client, essentially we will have a second part—a review process—that will validate all of the things that we do. We abide very much by our code of ethics. We may, on occasion, get a counsel's opinion to support some of the technical arguments that we want to rehearse and make sure they are correct. In some cases, there may be an opportunity to discuss with HMRC in advance, particularly around advance pricing arrangements for transfer pricing. It is a very complicated area—I am trying to give you a quick synopsis of what we do.

**Q201 Austin Mitchell:** It is you that will have the job of running rings around HMRC, if that's the way you want to put it. I see from the filed accounts in the States that from 2006 to 2011 Google generated \$18 billion in revenue from the UK, and paid just \$16 million in taxes, which obviously means that Google is getting some very good tax advice from somewhere. I imagine it could be from Ernst and Young as the auditors to Google. The auditors, Ernst and Young, collected \$14.3 million in fees, including \$1.9 million for tax advice in 2011, and \$21 million in 2012, including \$5.5 million for tax advice. Google's returns filed with the US Securities Exchange Commission say that the payments are for, "Services provided in connection with tax compliance, tax planning and tax advice, including foreign tax return preparation and requests for rulings or technical advice from tax authorities." Is that you or is that Ernst and Young in America?

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**John Dixon:** I cannot comment on what we do for Google. I can't—

**Q202 Austin Mitchell:** These are published figures; these are filed returns with the SEC. Are they filed by you or are they filed by Ernst and Young in America?

**John Dixon:** I do not have the breakdown of the figures that you are quoting to me, so I do not know in terms of the constituent elements of what has been disclosed essentially what that represents. If it would be helpful I can find out, see whether I am authorised to disclose that information to you and then come back to the Committee.

**Q203 Austin Mitchell:** I think that it is important to find out because I see from the newspapers, which I read, that Ernst and Young in the States, not you, has just paid in March a fine of \$123 million to buy off a criminal inquiry. The inquiry is into the activities of Ernst and Young knowingly marketing unlawful tax evasion schemes. That was, I assume, Ernst and Young in the States.

**John Dixon:** I believe that was Ernst and Young in the US.

**Q204 Austin Mitchell:** Do we know whether those schemes are being marketed in the UK as well as in the US?

**John Dixon:** I do not believe they were marketed in the UK, no. I think that was very much a US issue. It is very old; it is something that has now been finalised. That is all I can say on that matter.

**Q205 Austin Mitchell:** But it was a criminal prosecution.

**John Dixon:** I don't have the data point on precisely what the nature of the prosecution was.

**Q206 Austin Mitchell:** You will have to take my assurance that it was a criminal prosecution. Here is a body that had been criminally prosecuted for one aspect of its business, detailed by Prem Sikka and me in some of our pamphlets, advising Google on ways to avoid paying tax in this country. That is the picture.

**John Dixon:** I'm sorry. With respect, I think you are linking something that I don't think should be linked. I can't comment about what we do for Google. The US issue is a very historical one. I will obtain more information about precisely what was involved and will come back to the Committee.

**Austin Mitchell:** And you can't tell us what you are doing here. That's a lovely story, isn't it?

**Q207 Stephen Barclay:** I want to pick up on Guto's and Austin's questions about the culture of auditing. Ernst and Young audited Lehman Brothers, in London, I understand. That is correct, isn't it?

**John Dixon:** Yes.

**Q208 Stephen Barclay:** I think earlier this year the regulator decided that there would be no fine for the firm and no fine against any individuals. Is that correct?

**John Dixon:** I do not have the data points on precisely what happened there.

**Q209 Stephen Barclay:** The House of Lords also criticised all four big auditors, to use their phrase, for being "blind to problems". Have you read the House of Lords report on that?

**John Dixon:** Yes, I have.

**Q210 Stephen Barclay:** So you will be aware of that. Again, no action flowed from that. Austin mentioned a case in March 2013 and, to be fair to Ernst and Young, that related to advice given a decade earlier. You are no doubt aware that the Senate in 2012 criticised Ernst and Young for tax advice in respect of Hewlett Packard. One can go through a chronology: six partners disciplined over a particular case in 2009 and so on. Whether you go back a decade or more recently there is a chain of auditing failures. To an extent, with a large firm such as Ernst and Young issues will arise. One accepts that.

What is unclear is how the culture has changed. The Chair referred to a raft of documents that create concern, yet you as a firm don't really see any threat from the regulator—certainly, that is a logical conclusion from the Lehman's case where no one is subject to a fine. As Guto referred to, the professional standards and code of practice do not seem to bite. I wonder if you could explain how the culture has changed in terms of your relationship with firms and the questions you might ask, and when you felt that change occurred.

**John Dixon:** First, we strive to abide by the highest standards of professional service in all of our clients. We abide by our code of conduct. There will be instances where there are issues. I think it is incorrect to try to link those particular instances. We learn from the issues as and when they occur and we take our responsibilities very seriously.

**Q211 Stephen Barclay:** You would have said that at any time in the past, surely.

**John Dixon:** I think that's right. That is not to say that we paid less attention to those issues in the past. We maintain the highest standards; we have done and continue to do so.

**Q212 Stephen Barclay:** What I was trying to tease out from you is that the culture previously was fine and the culture has continued in that fine tradition.

**John Dixon:** The culture in what respect? Could you perhaps clarify?

**Q213 Stephen Barclay:** The culture of the firm, in terms of your relationships with the people you are advising. You don't feel that there was any problem previously and there has not been any need for culture change?

**John Dixon:** No, I don't think that there has been any change—this is not a negative sense. We always continue to strive by the highest ethics and the highest standards across the business that we do. In that sense, we did so in 2000 and we do so now. As far as planning is concerned, if I look at specifically at the areas that I am particularly responsible for—I said this at our previous meeting—the standards around the type of planning that companies undertake now are definitely higher. The requirements of substance and

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of fact and the world of more aggressive tax planning that existed in 2000 and 2001 have definitely changed. We have responded and been part and parcel of leading that change.

**Q214 Ian Swales:** A very quick PS to my VAT questions. Despite being a chartered accountant, I did not understand the answer. Can you please write to us showing in detail how your invoicing to a UK customer works and the associated VAT arrangements? I would appreciate that.

**John Dixon:** I can certainly do that. It is complicated, but you need to understand the basic mechanisms of VAT.

**Q215 Ian Swales:** That is what I want to understand.

**John Dixon:** I will do a £100 sales invoice from Ireland to the UK, including what the VAT is and what happens in the end.

**Ian Swales:** And how the cash moves. Thank you.

**Q216 Chair:** I wanted two things. One was for the public not to see the facts distorted. Mr Brittin, you said that Reuters had corrected their story, but they have said to me, “We did not correct our special report and do not agree it was misleading. On a subsequent story, we did issue a correction to amend the language where we had said that ‘Google did not have a permanent establishment in the UK’ to say that ‘Google did not have a permanent establishment in the UK for its advertising business’. Given the story also stated ‘UK tax paid by Google UK Ltd’, we had thought it was clear that we were talking about the core business, but were happy to correct when Google raised the matter to ensure no possible confusion. We stand by all the facts reported in our story.” I just thought for the public record we should not allow you to distort.

**Matt Brittin:** I think I said that Reuters corrected the story, and that just confirmed that they corrected the story.

**Q217 Chair:** For the public record, they corrected a minor point. They did not correct the story; they corrected the language.

**Matt Brittin:** I think they added more of what I said to you to make it a fair representation.

**Q218 Chair:** They added “for its advertising business”. I will ask you this question: if you are a

hard-pressed family who pay all their taxes or if you are a struggling business that feels very bullied by HMRC, and certainly hassled by them, how do you think they feel every time they switch on to Google and they are reminded of your rather devious—if I may say so—calculated and, in my view, unethical behaviour in deliberately manipulating the reality of your business to avoid paying your fair share of tax to the common good? How do you think ordinary people feel?

**Matt Brittin:** I think if ordinary people listened to that statement, they would rightly be concerned, but that statement is not a fair representation of how we operate. We comply fully with the laws that are set down by politicians and we operate in the UK in a way that is consistent with other companies operating from a European headquarters outside the UK.

I understand why, in these tough times for families, there is extra scrutiny of how companies operate, but I am happy for us to come and answer questions, and we are as open and as transparent as anybody in answering those questions. It is important to note that we comply with relatively complicated international tax laws that are set by politicians. We welcome the approach of the OECD to look at whether those laws can be simplified further, because it is important for companies to focus on what they should be doing, which is providing innovation, growth and employment. If I look at how we contribute to the UK, yes, there is an element of employing people and paying corporation tax on the service company we operate here—

**Q219 Chair:** We have been there before. Don’t get me irritated, because I get really irritated. All you are being asked for here is—you are a company that says you “do no evil”, but I think you do do evil, in that you use smoke and mirrors to avoid paying tax.

**Matt Brittin:** Tax is not a matter of choice; tax is a matter of following the laws that are there internationally.

**Chair:** We have all heard today how you define it. We are probably going to go back over old ground. Let’s leave it at that. No doubt we will meet again. Thank you.

### Examination of Witnesses

**Witnesses:** **Lin Homer**, Permanent Secretary and Chief Executive, HM Revenue and Customs, and **Jim Harra**, Director General, Business Tax, HM Revenue and Customs, gave evidence.

**Q220 Chair:** I think this is probably the third time that you have come to us after we have had a hearing of people involved in tax avoidance/evasion. As I was preparing for today, I got more and more concerned. You have customer relations managers, and their job is to understand the business of the customer, and you have an overriding duty—unless you tell us

otherwise—to collect all tax due on behalf of the Government, Parliament and every man and woman in the street. What I do not understand is why a few journalists with a bit of common sense, a few principled whistleblowers and a group of lay people, which is all we are, although we happen to be MPs, can uncover the reality of companies and business in the UK when you cannot? I just don’t get it. I know



that you cannot talk about the specifics, so talk about it generically. I just don't get it. It is so obvious—it is common sense—to absolutely everybody, whether they be their customers, MPs or the whistleblowers, who I have to say were really principled. They came because they think that what Google is doing is unethical. That is why they came to see us. How come that you, with these customer relations managers, don't find it?

**Lin Homer:** As you say, we do try to attend and listen to the hearings, so that our time with you can flow on directly. I will try to answer that question directly. I think we are confident we do fulfil our duty as the tax administrator thoroughly and well. We investigate, uncover and understand what is going on in the large companies, but I think there is a point of difference between us, which I might as well be blunt with at the start. We are there to collect the tax that is due under the law, whether national, European or international, and that is a matter for the application of expert tax knowledge. I am afraid that that is something that we do rather better than the Select Committee. We look at the things that you look at and reach decisions on them. I have to say that we believe, and I think the judgment this morning of Justice Nicol shows, that we reach legal, reasonable and good decisions. I think sometimes—

**Q221 Fiona Mactaggart:** I don't think he called it "good."

**Lin Homer:** I would call it good.

**Fiona Mactaggart:** I do not think the judge called it good.

**Lin Homer:** "Reasonable" was the term that he used. What we cannot do, unless and until you change the law, is collect the tax that people would like us to collect. I completely understand the emotional response to some of the outcomes from, in particular, international tax law. Indeed, Government have asked us to lead some work on potentially changing those laws. But until they are changed, we are duty-bound to collect the tax that is due. I think, if I might say so, that part of the gap that emerges is that gap between what people would like to be the case and what actually is the case.

**Q222 Chair:** I have to say to you that, to be honest, all this stuff is an issue of judgment. If you look at your tests and your definition, it is a judgment. Let me get this judgment out again, because it is worth going back to. We will read it out again—Ian will read it out. It's a judgment, and I think that your judgment belies common sense. We don't trust your judgment. We don't trust it.

Anyone sitting here and listening to the whistleblowers and hearing what they are doing, anyone who had walked around their offices and looked at their payslips, and anyone who had looked at the manuals that these staff use as the basis on which they work would not have come to the judgment that you have. You are unique in that. If you say you've done it and you've looked at all that stuff, and that's the evidence you're giving us today, I just think that you have lousy judgment and the people who are taking those judgments are not fit for purpose.

**Lin Homer:** Well, I'll say this again, Chair: I do know and am trying to acknowledge the depth of emotion that is felt about this—

**Chair:** It's not emotion, Lin, it's anger. There is some anger—okay, that is an emotion, so that's not fair. But on this tax issue everyone tries to hide behind there being some clear, well-defined, black and white law. There isn't. It is an issue of judgment. Whether any company, be it Google or any other, is trading in the UK rather than trading into the UK, and whether the activities that their staff are undertaking here are sales or marketing activities, is a judgment. Our judgment is different. We are just applying an ounce of common sense, and I don't think your staff are. I think your staff are getting bamboozled by them.

**Q223 Ian Swales:** Just on that, the particular thing we are looking at today is all about permanent establishment, and there was another report in the newspaper yesterday about another large company. People are questioning your judgment, in effect. The tests are: is there trading activity by the non-resident company? Clearly the answer is yes in every case we can think of. Does that trading take place in the UK? Is there a fixed place of business? Is the trade carried on through that fixed place of business? If there is no fixed place of business, is the trade carried on through a dependent agent? With so many of the organisations, such as the one we had in this morning, it is very difficult to see how your staff, in asking those questions, would come to the conclusion that the answer to any of those questions was no. We know it only has to be no to one of them, but what we are asking is, how could it be no to any of them, given what we have been hearing?

**Lin Homer:** Look, I am quite happy to ask Jim to comment on the permanent establishment, but I just want to answer the Chair's question first. Our judgment is based on expert tax professionals, and review of those judgments finds them to be good. In the first four months of this year, we have protected £1 billion of tax through litigation. We make very good judgments about when to go to the courts. We win 86% of the time, and when people challenge us, as was the case with UK Uncut, the judges found clearly on all the substantial points that our judgment was right—

**Fiona Mactaggart:** No. I don't think that's true.

**Lin Homer:** I strongly rebut that our judgment is—

**Chair:** Fiona, go on.

**Q224 Fiona Mactaggart:** The judgment concluded that the settlement with Goldman Sachs was legal but, in his words, "was not a glorious episode in the history of the Revenue". The HMRC officials who negotiated "had not been briefed by the lawyers... they relied on their belief or recollection that there was a barrier to the recovery of interest"—which there wasn't—and "the officials who negotiated the agreement overlooked the need for approval" of the deal.

The judge said that the deal was legal—that is true. He didn't say it broke the law, because there is a space in which the Revenue has discretion to operate. What we are concerned about is that you, Lin, are operating

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in that space in a way that favours these big companies rather than the taxpayer, and we would like to know why.

**Lin Homer:** And I am rebutting the suggestion that we operate in a way that favours big companies. What the judge said clearly was that we had operated in a way that did not infringe our strategy and that we looked at those issues properly. And, separately—

**Q225 Chair:** You are ignoring that bit of the judgment—you are being selective in what you are saying, Lin.

**Lin Homer:** No, Chair, I am not. The reason I am talking about this is because we have spent many hours in front of you on these issues and you have made similar allegations to those that you are making today. They have been really closely looked at by you, the NAO, a tax judge and now by the High Court and, on all occasions, what has stood up is that our approach and judgments are good. What I would return to is that they are not always the judgments that people, on a common-sense basis, would like us to make. I wholly accept that, but that is not the same as saying that we are not good at making—

**Chair:** So the law has no common sense.

**Lin Homer:** That is more for you than for me, Chair.

**Chair:** That is just a silly, silly, silly, silly, silly argument.

**Q226 Stephen Barclay:** May I put on record first that I do think that staff are exercising common sense, and that if court cases are being won at a rate of 86%, clearly good judgment has been shown in the use of taxpayers' money on fighting those? I want to be clear on that.

I would like today's session to be forward-looking on how we support you as a Department with the extremely difficult challenge of taking on complex, well-researched companies that I think are exploiting grey areas of law. That may be an issue for Parliament, or its negotiations with international partners, to clarify so that we can be clear on that and push on that as a Committee. Or, quite often, it is a resourcing issue. By that I mean whether, for example—this is where I am particularly interested in your views—sufficient on-site investigations are being undertaken.

For example, I was a little surprised, Ms Homer, that, given that Parliament and the media expressed quite a few questions about companies such as the one before us today last November, the witness said, in essence, that no one from HMRC has really come on-site for three years. I would have thought that, if I were in HMRC, after that hearing in November I would have wanted to send a team in, even just because the threat of a team coming in can sometimes focus minds. Therefore, what I would really like to get to is how the on-site investigations are working, what you see as the constraints to those, and whether there are any recommendations we as a Committee can bring, because I think that the potential revenue that could be obtained fully justifies the cost of a more robust investigative approach.

**Lin Homer:** Yes, we completely share the Committee's desire to get the most tax receipts that

we can for the country. Perhaps it is sensible for me to ask Jim to explain some of what we currently do, some of what we plan to do with the increased resources that we have been given by the Government and some of the practical examples—although, Chair, you were very kind in recognising that we will not talk about the particular company that was in front of you.

**Jim Harra:** The matters that are being discussed today are really about permanent establishment and transfer pricing, and we tend to look at both of those together in the same inquiries. We have a specific transfer pricing specialist team, which is then supported by the caseworking teams.

**Q227 Chair:** How big is that team?

**Jim Harra:** In the specialist team, there are 65 people. We are currently recruiting three further economists and another 15 specialists on top of that with the additional resources that we were given in the Autumn Statement. They are supplemented by the caseworking teams. So there are, in total, about 1,200 people working in our large business service, for example, who deal with the 800 largest businesses. They currently have over 600 inquiries in train, and over the last five years there have been more than 2,500 such inquiries, which have brought in over £4.6 billion of additional revenues.

In terms of the investigations that they carry out—you heard from the previous witness about his experience of these—we go beyond the documentation that we are given. Most of these multinationals have very carefully planned their structures using tax advisers. In practice, there is often little mileage in us investigating the theory of those, because they have been very carefully worked through, but we do check whether the substance on the ground reflects what has been designed. On occasion, it can happen that what has been designed is not practicable for the business to operate, and therefore you will find on the ground that they have moved away from what the documentation says.

**Q228 Stephen Barclay:** So it is legally tight, but its artificial nature means that, pragmatically, on the ground, people do things that stray from the legal construct.

**Jim Harra:** That can be the case, and that is why the substance as well as the form is something that we investigate. That means that we go into the premises, we interview senior executives, we interview employees, and we observe employees and what they are doing. We will also gather third-party information from, for example, customers of the business. We also have mutual assistance provisions in our treaties with other fiscal authorities, so they can obtain information for us about what happens in their jurisdictions and we can verify what we are being told.

It is our experience that most of the multinationals that we deal with are quite open and transparent and co-operate with our inquiries, but nevertheless, we do all that groundwork and do not rely simply on the documentation that we are given. I would say that if any person—a current or former customer or a current or former employee—has information they think can

help us in those inquiries, we very much welcome receiving that.

**Q229 Stephen Barclay:** Could I build on that, because evidence has come to the Committee? On the specific point about UK-based staff who are able to negotiate on price, would that activity be classed, in your view, as promotional activity?

**Jim Harra:** Going back to what Mr Dixon said, I am not sure that is directly relevant to the tax rules. We can debate whether an activity amounts to promotion or amounts to sales, but when you then look at whether that makes any difference in relation to the tax rules, I am not sure that it is particularly relevant.

**Q230 Chair:** Why not?

**Jim Harra:** Because we have to establish one of two things: either the non-resident company is trading in the UK through its own permanent establishment here, or it is getting services from a UK company to support it. When it comes to looking at the services that the UK company provides, it is relevant, in particular, to understand the extent of the services that are being provided here, because that affects the transfer price that the non-resident should be paying the UK company. But it may not be particularly relevant to determining whether the non-resident company has its own permanent establishment here.

**Chair:** Say that louder.

**Jim Harra:** It may not be as relevant to determining whether the non-resident company has its own permanent establishment here, as opposed to getting services from a UK-resident company.

**Q231 Chair:** But it does not really matter which way they do it; one way or the other, it is sales activity.

**Jim Harra:** Yes. In my view, what I heard today is that it is sales activity; it may not be that the contract is concluded in the UK, but how far that takes you in relation to the tax rules is a different matter. The more value add there is by people in the UK, the greater the transfer price that should be paid to the UK company, but it still might not create a permanent establishment of the non-resident company.

**Q232 Stephen Barclay:** Could you explain why not? That is the crux? If you are saying that, on the evidence today, it sounded like there is sufficient substance for saying there is sales activity going on, why would that not feed into this?

**Jim Harra:** If I can talk in general terms, in order for there to be a permanent establishment in the UK, there must be one of two things: either there is a fixed office that the non-resident company has here, or there are people here who act as its dependent agents under agency.

**Chair:** Would you mind speaking up, Mr Harra?

**Jim Harra:** I am sorry. In order for there to be a permanent establishment, there must be one of two things: either there is a fixed office—a branch office, in effect—of the non-resident company, or there are people here acting as its dependent agents. But if there are simply people here from another company who are providing services to it, that will not create its own permanent establishment.

**Q233 Stephen Barclay:** But don't an office here and people not only based here but living here and being paid here meet the test you have just set out?

**Jim Harra:** First of all, you need to look at who it is they are employed by. If they are not employed by the non-resident company, but are employed by a UK-resident company, it is quite difficult to say they are a permanent establishment of the non-resident company. What they are doing is working for a UK company that provides services. Therefore, what is relevant is not the permanent establishment test but the transfer pricing rules.

**Q234 Meg Hillier:** I should say, to be fair to Google, that they do a lot of work in my constituency with local teenagers—sixth-formers and so on. I applaud them for that, but if I took any of those sixth formers and presented them with the summary of today's evidence from both you and Mr Harra, and the previous evidence, I think they would all say that the simple answer is that trading activity takes place in the UK.

That brings me to another issue, and you may not want to stray too far into this territory, but, Ms Homer, you talked at the beginning about politicians making the law. We would acknowledge that that is an issue, and perhaps we do not make the best law. The world is a moving and changing place. But which bit of the law ought to be changed to make it clearer that what we heard earlier is actually trading activity? We are really dipping into—I would not even call them grey areas. There is a lot of sophistry from all sides. What could be changed in the law? Does it require primary legislation or can other changes be made to the law quickly by regulation to keep pace with these sorts of developments?

**Lin Homer:** In a sense, what I was trying to reach towards is that there is, I believe, a gap between, if you like, the common-sense view, which the Chair and other members of the Committee explain very well, and the rules we are bound by. The challenge in this area is that much of what needs to be looked at is the international law. We are leading a piece of work—again, Jim can talk about this—within the OECD framework. I have to say that we have had very good support from other countries—France and Germany, in particular—and we have had some good input from business, who, I think, themselves recognise that, not least due to the reputational issues that Mr Dixon alluded to, this area needs to be changed, but that means that it will require change that will involve more than one country.

**Q235 Meg Hillier:** That is the problem. We look at this in a cool moment and say, "Yeah, okay, international tax change." That is a very big, complicated process. It could take years, by which point the tax lawyers on the private side and the advisers will have worked their way round it before it is even in place, potentially, and we will be behind again. Is there a quicker way of doing these things? It is perhaps an impossible question to answer, but is there a way that we can enable law that means that things can be changed much more quickly, at least in the UK?

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**Lin Homer:** I will hand back to Jim. I think that one of the interesting things we should talk about in this area is the work we do with companies on codes of practice and tax strategy.

**Jim Harra:** First of all, in terms of the rules, there is an international framework, and it is the operation of that international framework that is at issue here. Other fiscal authorities are up against exactly the same issue.

**Q236 Chair:** Yes, but the French are taking action and you are not.

**Jim Harra:** The French, together with the Germans, are funding the international project that we are working on, because they recognise—

**Q237 Chair:** But the French are actually taking action against Google as we speak and you are not.

**Jim Harra:** I cannot comment on who we are and are not taking action against.

**Q238 Chair:** That is another way out of it. We have been running a long time this morning. Can I just say to you that we all accept that there is international activity that needs to take place? What I am not prepared to accept is that there is not further activity that you could take action on here in the UK. We all accept that it is really important to get on with the OECD and the EU and sort that lot out, but it is going to take you for ever, and in the meantime, other countries are managing to get money in and you are not.

**Lin Homer:** We do not—

**Jim Harra:** I certainly do not accept that, Chair. There is no evidence that any other fiscal authority is having greater success.

**Q239 Chair:** Google is currently appealing against a judgment where 1.8 billion—I do not know whether it is euros or dollars. What is it? Euros. We are getting nothing.

**Jim Harra:** The record of other tax authorities in litigating in this area does not indicate that they are getting any more successful outcomes than the UK.

**Chair:** The Spanish?

**Jim Harra:** For example, India, Canada and Australia have all recently lost in major litigation. In fact, Australia is now having to change its rules to come more into line with the UK, as a result of that loss.

**Amyas Morse:** I just want to follow up the line that Stephen was taking earlier, if I may, and just check something. I do not disagree with anything you are saying, but none the less, every time you decide to tackle a contentious case on transfer pricing, it is a massive investment of time and effort over a long period. You know that there is a long road winding and, with these powerful and influential countries, you are going to have a really tough old road to travel if you decide to take them on.

I am not trying to imply anything about not doing the job properly, but what I am trying to get at is this. You have said you have more resources as a result of the Autumn Statement. I actually think the more dissatisfaction there is with the current arrangements and the more pressure that is put on to get more

resource behind the enforcement and investigation efforts, the more there is a limit to how much resource you can put to any one activity. We all know that, and it is not a criticism. It is just a fact that if there is a public view—this is what I have listened to the Committee articulating—that they would like to see stronger enforcement and would like you to have more resource, if I can put it like that, to do more investigations, that is not necessarily a particularly hostile development.

**Lin Homer:** Not at all.

**Amyas Morse:** If you have the resource, can you use it?

**Lin Homer:** It is a perfect time to be talking to you. As you know, spending reviews are in the air. We have had extra resources in—

**Chair:** We know that, Lin. Tell us something new.

**Lin Homer:** Sorry, I am responding to Mr Morse's question. Yes, if we get more, we believe we can use more, but we think changes need to happen in the framework as well. We already bring in roughly £1 billion a year on our transfer pricing work, and the sums I referred to in litigation are, in a sense, the ones that are in dispute, which is why we strongly disagree about the comparison with other countries. I have met my French counterpart. His view, across the table from me, is that we are doing much better than them. They want to work closely with us. We want to learn anything from them that we can, and the information we gained with our Australian and US partners last week, which we profiled in the news, will be trawled through to see if there are other sources of investigation we can follow.

So Chairman, we would completely accept that the investigative work is essential. The framework is essential, as is the quality of our people. We do not deny at all that there is more that we can do, but I think the standard we are achieving so far is good. I want that to be on the record, and I want it to be clear that I think the work Jim and his team do has an impact on large business, not just around specific disputes, but in behaviour. Those behaviour changes, which I think your work also affects, are an important part of what we do.

**Q240 Ian Swales:** You talk about your large business service. Do the service companies of these large e-commerce companies we are talking about, which in themselves are not that large and do not pay much tax, qualify as large businesses? Do you allow for the fact that the business in the UK is actually 10 times what those companies appear to be doing?

**Jim Harra:** We certainly do. First of all, we have a basic definition of large business, based on its size, which is number of employees and turnover, so if it has more than 250 employees or more than £30 million turnover, it is a large business. But we also then, on top of that, look at whether there are any, for example, large multinationals that claim only to have a small footprint in the UK, and we would put those into our large business service because they pose the same kinds of compliance risk.

**Q241 Ian Swales:** Are they put in at the level of £4 billion-plus? The company we saw this morning and

another one that was in the news today about permanent establishment both turn over more than £4 billion in this country. Are they put into your processes at that kind of level?

**Jim Harra:** If there is a major multinational with big sales to customers in the UK, even if it claims to be a small business by monetary definitions, we would still treat it as large and apply that approach to it, because the compliance risks that it poses to us are similar to any other large company.

**Q242 Ian Swales:** Not just compliance risks. The potential take from these companies is absolutely colossal if you can win cases, and so on. I would like to do a bit more on that and talk about e-commerce. Your own guidelines say, “A website proffering goods for sale amounts to an ‘invitation to treat’ in relation to those goods.” Further, in the same guidance, it says that “there is a good argument that the place of contract is the UK.” These are your own guidelines I am reading from. Can you tell us how you approach these multinational e-commerce companies, and have you worked a dispute with any of them on that point—that their place of business is the UK, not where their server is?

**Jim Harra:** We certainly have had disputes with digital businesses of the type that you describe, both in relation to whether they have permanent establishment here or whether their UK company is getting the right transfer price for the services that it provides. I think that when you look at those international rules that relate to permanent establishment, they are really under strain because of the development of a digital economy. They have not kept up to pace with that and the UK, together with other fiscal authorities, will struggle in relation to those businesses until those rules are addressed.

**Q243 Ian Swales:** Every time there is a judgment on place of business around e-commerce, as I understand it, in the US and elsewhere, whether it is a company law issue, a legal standards issue or whatever, the judgment says the place of business is where the customer is, and your own guidelines suggest the same, so do you not act on that in your own work?

**Jim Harra:** I do not think, in relation to permanent establishment, that that is something that I recognise. In a lot of these cases HMRC would argue there is definitely trading activity in the UK. The extra hurdle, then, that we have to cross is, can we point to a permanent establishment in the UK that is carrying out that activity? By that, I mean a permanent establishment of the non-resident company, not a UK-resident fellow company.

**Q244 Ian Swales:** So you do not regard a website—probably with a “.co.uk” suffix, but not necessarily—operating in the UK as constituting a UK business activity? Is that what you are saying?

**Jim Harra:** We certainly would not be able to argue that simply because a website has a “.co.uk” suffix that makes it a permanent establishment in the UK. It could well be hosted on servers anywhere in the world. It could well be serviced by people anywhere in the world. That would not be sufficient.

**Q245 Ian Swales:** So despite your own guidance, you say where the server is is what counts. That is not what your guidance says.

**Jim Harra:** No, I am not saying that. It is a relevant factor. The OECD would argue that the location of a server is where its permanent establishment is, but the UK demurs from that. We do not agree with that.

**Lin Homer:** And this is actually one of the areas that the international work is going to be looking at. So we have signalled that we think this is an area that would benefit from a review.

**Q246 Guto Bebb:** Not being in any way dismissive of the comments you have made, because I am quite sympathetic, but the gist of those comments is that the tax system in the UK and the tax legislation are a mess, but within that mess you are doing fairly well. Is that a fair summary of the situation?

**Lin Homer:** No, not at all. I think the tax system in this country, like many countries, is complex. I actually think we are regarded—I mean, I am a newcomer to tax and I have talked with a number of international colleagues, and I think both the tax system and the tax professionals in this country are regarded as leading edge in the world. But what I think I was trying to say is that there is a complexity to the system, which sometimes separates the outcomes from the common-sense view of what should happen. That is not the same as saying that it is a mess. The law is rarely involved in areas that are simple and this is an area where I think there is a complexity—the last debate about permanent establishment illustrates that—which sometimes creates a gap between what people would like to happen and what is possible within the law. That is the simple point that I was making. I think our law and our application of law are regarded, generally, as being leading edge in the world.

**Q247 Guto Bebb:** But the point I am trying to get at is that we have 11,000 pages of tax legislation and it would appear to me that the opportunities to create legal tax avoidance, which is potentially ethically dubious, is created by that complexity. But just to move on to something more positive in terms of whether you would agree with this, the Australian Finance Minister recently described double tax treaties as being akin to double non-payment of tax treaties. In relation to the fact that the situation we have been discussing this morning is based upon a double tax treaty with Ireland, do you share that concern about double tax treaties? If that is the case, should that be a priority to be looked at by Parliament?

**Lin Homer:** I think I am going to pass that one to Jim.

**Jim Harra:** Double taxation agreements are a means by which the tax authorities of countries all around the world ensure that there is neither double taxation nor double non-taxation of taxpayers, so they are a means of allocating the taxing rights between us, where transactions or businesses cross our borders. In the case of the areas that the Committee has been looking at today, most of those double taxation treaties are based on the OECD model convention, which is why I say that the OECD project needs to look at that

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and see what changes need to be made so that we can be satisfied about how profits are allocated under our treaties. But they do perform a very important function in the tax system of making sure that profits are allocated to one country and not to two or to none.

**Q248 Guto Bebb:** In terms of the work being done by the OECD, then, is there a timetable for any action to be taken by individual national Governments?

**Jim Harra:** The OECD Base Erosion and Profit Shifting project published its first report in March<sup>1</sup>, where it identified four<sup>2</sup> problem areas that are causing the kinds of thing that the Committee is looking at today. The next stage is to produce an action plan on what to do about those four<sup>3</sup> problem areas; that action plan will come to the G20 in July. There is a good international consensus about what these problems are and that something needs to be done to address them, and I would be hopeful that in a relatively short period after that we can get international agreement. There will be some thorny issues to thrash out, because each country will be coming to that based on what its national interests are.

**Q249 Guto Bebb:** You said at the outset that the problem with the tax code is its complexity. Previously, you have also mentioned the need to look at resources in terms of being able to deal with these issues. Do you think that the resources made available to the Office of Tax Simplification are sufficient in that context?

**Lin Homer:** I probably need to leave the Office of Tax Simplification to tell you what they think. I think—

**Q250 Guto Bebb:** With respect, you did make the point that the tax system was far too complicated, so I am just asking for a view on that issue. You do not have to be dismissive of their work—

**Lin Homer:** No, I was not at all.

**Q251 Guto Bebb:** My understanding is that it has six full-time members of staff, which is concerning.

**Lin Homer:** I think that simplification of the tax laws requires not only some insight from an organisation such as the OTS, but some significant work by HMRC and HMT officials and a preparedness to make legislative time. In my experience—I do not mean to be rude to Parliament—even when you think that there are things you can do, it is not always the case that it is regarded as a priority for legislative time—

**Fiona Mactaggart:** We are not doing anything else, so we have plenty of time.

**Lin Homer:** If that is the case, we will put forward some ideas.

Truthfully, there are other things that we can do in this space without having to wait for legislative changes, which is to be much better and clearer about informing people about tax regimes. Some of our improved data analytics, which we have talked to you about, also allow us to be more challenging in the area where people use that complexity to be mischievous with us, so I do not think that we in any sense wait

until the complexity goes away; I think there are things we can do. I do not believe that there are many places in the world with simple tax systems, so ways of making the complexity less of a barrier to good, effective administration is the alternative.

**Q252 Chris Heaton-Harris:** Two of my questions have been asked, one by Guto and one by Meg, but I have one tiny point. I am not sure if I have sympathy, because I am not sure if that is the right word, but I can see the situation you are in, and I think you are dealing with it as best you can within the rules that you are given, so sympathy is the wrong word—I think you are doing the job you have to do in the manner you have to do it, and maybe we need to work on how we change that legally and help with that. Perhaps we need to have a debate on the Floor of the House—I do not know if the Committee can do that—about some of these arrangements and things.

The specific question that I would like to ask is about the customer relations managers that you have. I am interested in the poacher-turned-gamekeeper aspect, because many of them have worked outside your organisation before coming in—they come in to do this particular piece of work. I am interested in what guidance they are given and what guidance they are allowed to give to companies. What is that relationship?

**Lin Homer:** Jim manages them, so I think it is sensible to let him answer.

**Jim Harra:** The top 2,000 businesses have got a customer relationship manager allocated to them. The vast majority of those people have not come from outside; they have been in HMRC throughout their tax professional career. Their job is to absolutely know their business: what its business strategy is, what its structures are and what its issues are, both business and tax. They also have to know what its attitudes towards tax planning are—in other words, how conservative or how aggressive it tends to be—and how good its internal governance is to make sure that all parts of the organisation line up with whatever it says its tax strategy is. The CRM then brings to bear on that business the right specialist resources from within HMRC, depending on what risks it displays to us.

Obviously, the nature of these businesses is that they are risky to us. That is why we appoint customer relationship managers and have such a resource-intensive way of dealing with them. The top 800 are dealt with in the large business service, and the remainder of those 2,000 are dealt with in our “large and complex” office. The number of businesses that a CRM carries depends on the size of those businesses and the complexity of the risks that they pose to us. Over the last five years<sup>4</sup>, through that approach we have brought in £34 billion additional tax from large businesses, including £7.5 billion last year—

**Q253 Chair:** What do you mean by additional tax?

**Jim Harra:** That is tax over and above what those businesses intended to pay us. Through the results of the investigations that our CRMs lead, that is the extra

<sup>1</sup> Note by witness: should read “February”

<sup>2</sup> Note by witness: should read “six”

<sup>3</sup> Note by witness: see footnote 2

<sup>4</sup> Note by witness: should read “since 2006”

tax that comes to the Exchequer that would not have come to us if we had not carried out our inquiries.

**Q254 Austin Mitchell:** It seems appalling to me that we have to do all this work and expose all these issues, and that the bit of research by Reuters, which was fairly simple and straightforward, had to be done to expose the payment system for Google. Why the devil wasn't HMRC on to this? Why wasn't it raising these issues before? Why is it left to us?

**Lin Homer:** I don't really think I can do more than repeat what I said earlier. I think we do do these things. We don't do them in public, but if I just give you—

**Q255 Austin Mitchell:** You do not tell us that you are doing them, either.

**Lin Homer:** We are duty-bound by statute to keep confidentiality.

If I give you another statistic on the back of the one Jim just gave, Jim's staff in large business effectively bring in £4 million of revenue each per annum, and in large and complex, which are the smaller businesses, £1 million each per annum.

**Q256 Chair:** What is the take on corporation tax over time, Lin? It has gone down, hasn't it?

**Lin Homer:** Yes, largely—

**Q257 Chair:** Why?

**Lin Homer:** Largely because the rate has gone down. If you make a policy decision to reduce the rate, then your take goes down.

**Chair:** No, it's not just the rate.

**Lin Homer:** It absolutely is.

**Q258 Chair:** It is not related to the rate; the take is down.

**Lin Homer:** The proportion of tax gap that relates to corporation tax is smaller than it has been.

**Q259 Chair:** No, I was not asking about the proportion of tax gap; I was just asking about the take on corporation tax. That has been going down year on year.

**Lin Homer:** Because the rates have gone down.

**Chair:** No, not just because of the rates.

**Lin Homer:** Well, I beg to differ with you on that. So, to come back to your question, we do believe that we are investigating and looking at the right issues. As I think has been the subject of quite a lot of this morning's conversation, we think that we see, but sometimes understand more fully, some of the issues that to the general public can look surprising. That is probably one of the reasons why some of what appears in public, while being known to us, may not lead to the same results that you would expect it to. But I just go back to the figure that Jim gave. We do ensure that companies pay the tax we believe is due, not the tax they believe is due. That £34 billion figure is the difference between those two things.

**Q260 Austin Mitchell:** Yes, but that is just an all-purpose cover-up, isn't it? You are saying, "We can't tell you what we're doing, but we're doing

something." That indicates that you might be doing something in this direction, but you are obviously not—

**Lin Homer:** That is not true.

**Austin Mitchell:** It took us to expose the situation. The general impression is that you are much kinder, gentler and nicer, and much more concerned about customer relations, with the big multinational corporations than you are with small businesses and individual taxpayers in this country, who are treated very aggressively. Big corporations get a much easier ride.

**Lin Homer:** That generalisation is not true and is not evidenced by the facts.

**Chair:** We don't know the facts, Lin.

**Lin Homer:** You do. We publish a great deal of information about what we do, including the tax gap, and the large business proportions of the tax gap—

**Austin Mitchell:** It took us pestering to get it.

**Lin Homer:** With respect, no.

**Q261 Austin Mitchell:** It seemed to me, from years of taking delegations from people like Prem Sikka and organisations concerned with tax both to Ministers and to HMRC to tell them about the rackets that were going on, that they were always received with interest and concern by officials, but Ministers generally just pooh-poohed them. In recent years, have you been under general pressure to give multinationals an easier ride so that they would come and put the money here?

**Lin Homer:** Not at all.

**Austin Mitchell:** Absolutely not?

**Lin Homer:** No. We have been given a target to take an increased yield from large business, which we have delivered against. Large business has provided, I think, £6.9 billion of additional compliance yield in recent years, and that is over and above the base line. We have been given extra money by the Government to chase extra tax out of big business.<sup>5</sup>

**Q262 Austin Mitchell:** Okay. If that's girl guide's honour, I will accept it, but one final question. The IRS in America has just won from the Treasury an inquiry into the activities and tax avoidance activities of the big four accountancy houses. The big four accountancy houses are a major problem. They have a network of skills, brains and ability that is far more powerful than HMRC has at its disposal. In fact, rather than dealing with it and demanding the same sort of inquiry into it, as it has been done in America, you are being permeated by them. We now have three new commissioners drawn from the tax avoidance issues. You rely on them for advice. You bring them into committees and consultations. They are playing a major role in HMRC. Why is that? Why don't you require the Treasury to inquire into the tax avoidance activities, advice and systems provided by the big four?

**Lin Homer:** We have generally taken a significant number of steps around tax avoidance in the past few years. Jim can probably quote some of them better

<sup>5</sup> Note by witness: The trends in Corporation Tax paid by large and small companies during the period since 2000–01 are the result of economic and commercial factors, and the changes to rates of Corporation Tax that have applied.

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than me, but we have taken many steps to introduce disclosure regimes and legislative changes—

**Austin Mitchell:** Not to pull away from them.

**Lin Homer:** This Government have shown themselves prepared to introduce some of them retrospectively. We are very robust in that area.

As for the use of seconded staff and non-executives with tax experience, I share the Committee's view that the top of HMRC needed to have more tax expertise. I am confident that our new non-execs bring a good balance of skills. It helps us to have people with tax experience from the private sector.

**Chair:** Can we have really snappy answers? I want to stop.

**Q263 Stephen Barclay:** A few quick questions, if I may. When a major company operating in the UK has entered into a Dutch ruling, would you see the details of that Dutch ruling?

**Chair:** Just say yes or no.

**Jim Harra:** I don't know whether we can automatically see them all. Most of the large businesses that we deal with are very transparent, and they will show us the rulings.

**Q264 Stephen Barclay:** Can you send us a note on that? Amazon is the most obvious example of when there was a Dutch ruling. There is some confusion over that, but it is difficult to talk about European co-operation if you do not have the details. I would be quite interested to have clarification, if I may.

**Jim Harra:** I will indeed.

**Q265 Stephen Barclay:** Secondly, we have talked a lot about corporation tax loss. Obviously, the tax loss from VAT is bigger than the tax loss from corporation tax. How does your resource allocation compare between the two?

**Jim Harra:** The main issue with VAT is evasion rather than avoidance. That is both evasion by small businesses, but also more serious organised fraud—MTIC fraud—which I am sure the Committee has looked at in the past. A much larger proportion of resources are deployed on VAT than there would be, for example, on corporation tax by large businesses.

**Q266 Stephen Barclay:** Again, perhaps we can have a quick note on that. I am particularly interested in why we have not set up a specialist team focused on things such as carousel VAT losses in the way that some other European jurisdictions have.

**Jim Harra:** We certainly have a specialist team on what we call MTIC fraud, which is carousel fraud.

**Q267 Stephen Barclay:** As far as I am aware, I do not think that you have brought a case against an internet on permanent establishment.

**Jim Harra:** It is the case that there has been no litigation against any digital company in relation to permanent establishment.

**Q268 Stephen Barclay:** Why is that?

**Jim Harra:** We certainly investigate permanent establishment and transfer pricing, and we get yield from those investigations.

**Q269 Stephen Barclay:** It is a great having a good success rate in court—80-odd per cent.—but there is also danger of being too risk-averse. It seems quite remarkable, given the quantum that we have been talking about, that there still is no case law.

**Jim Harra:** It is our strategy to litigate in any case where we believe that we will get a successful outcome in litigation and the company will not concede. That is the approach that we apply. Some other countries—I mentioned India, Canada and Australia—have recently been more litigious than HMRC has been in this area, but they have not been very successful. Obviously they are subject to exactly the same international frameworks.

**Q270 Stephen Barclay:** A final question that links into that and ties into to whether you would litigate: where does marketing activity create a permanent establishment? What is the tipping point in terms of marketing activity?

**Jim Harra:** Marketing activity is a trading activity. The question of whether it then goes on to making the sale would not necessarily create the permanent establishment because for a permanent establishment you need either fixed offices or agencies. So the question of whether you have completed the contract need not necessarily go to that. I think that is a point that Mr Dixon also made.

**Q271 Stephen Barclay:** Obviously we are not talking about Google, but a company like Google clearly has a marketing unit based in the UK. You must be saying that it is not permanently established. It has an office. It has a marketing unit. What is unclear to me is what the tipping point is. If it has an office and a marketing unit, what is missing before it becomes permanently established?

**Lin Homer:** Chair, given the time, if the Committee or some subset of the Committee were interested, I would be happy for us to set up a discussion about permanent establishment, as we have had one already with you, and bring in some of Jim's team and sit down with some anonymised examples.

**Q272 Chair:** Okay. Thank you for that offer. One of our whistleblowers told us that when he was with the hypothetical company, all UK employees were granted shares in the US company—Google US, Google Inc. If the employees of the UK company were granted shares in the US company, doesn't that make it a dependent agent?

**Jim Harra:** In my experience, first of all in the digital economy, rewarding staff by shares is pretty common. Those shares will tend to be—

**Q273 Chair:** That is not answering the question. We are in a real rush. If they are granted shares in the parent company, doesn't that make the company in the UK a dependent agent?

**Jim Harra:** In my professional opinion, remunerating your employees with shares in the parent company does not create a dependent agency.

**Q274 Ian Swales:** A very simple one from me. I know we have mentioned this before. With the way



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that VAT works we have a lot of offshore businesses selling into the UK. There must be many days in your office when you have the happy surprise of opening an envelope with a massive amount of money in it. How much is that? How much VAT do we collect in this country from offshore businesses?

**Jim Harra:** I don't have that information to hand. Where it is business-to-business transactions, as was explained earlier, it is the UK business that accounts for that VAT under the reverse charge. Where it is a business-to-customer transaction, then for electronic sales new rules come in in January 2015 which will give more tax to the UK.

**Q275 Ian Swales:** So you are implying that we under-collect VAT at the moment on sales into the UK?

**Jim Harra:** On sales of electronic services into the UK, the current rules do not favour the UK, but those are being reformed from 1 January 2015, at which point we should get full UK VAT.

**Q276 Ian Swales:** And as a result any UK business competing in that space has a big disadvantage at the moment.

**Jim Harra:** We have taken considerable action in recent years to make sure that the existing rules ahead of 2015 are not exploited.

**Q277 Ian Swales:** Thinking about physical goods, do you ever send HMRC staff offshore to take a look at what is actually happening and check the numbers?

**Jim Harra:** We certainly do, and in transfer pricing inquiries they inspect premises overseas on occasion to ensure that the activities that are being described really are happening there.

**Ian Swales:** Okay, thank you.

**Q278 Chair:** Can I just make a final comment? This Committee's tax work started on the back of a whistleblower who worked for HMRC, Mr Mba. I am aware that there is a tribunal ongoing on that issue. I just want to put it on the record that I, and I think the Committee, would take a very dim view of HMRC trying to sack a whistleblower.

**Lin Homer:** As you say, there is a tribunal. I am trying to ensure with all staff that when they have a concern about the organisation, they feel able to raise that. You have my assurance that we will continue to do that.

**Chair:** Thank you.

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### Written evidence from Google

I am writing to you following a Reuters story about Google's tax affairs.

Having engaged fully with your Committee in answering written and oral questions over the past months, I was very concerned to read allegations suggesting we had not fully represented how we operate in the UK. I wanted to write to you immediately to set the record straight and to prevent any misconceptions from gaining hold.

We have reviewed the evidence we gave to you during the extensive three hour evidence session and can assure you that my testimony was an honest and accurate account of how we work.

The Reuters article, on the other hand, is wilfully misleading. We explained to them in some detail how our company works and talked them through my evidence. They chose, however, to quote just a few words out of context and we have complained to the Editor about their approach. I am attaching the full statement we have issued this morning.

To take the Reuters claims in turn. First, there is a suggestion that I was less than open about the role of staff based in the UK. During the oral evidence, I told your Committee: "if [customers] want to buy advertising from us they are encouraged to do so by our people in the UK—they will buy it from our expert team in Dublin." I went on to say "...the people on the ground [in the UK] are helping people make the most of the web and the people in Ireland are helping to operate the systems and sell advertising to the businesses that want to work with us." We also said in our subsequent letter to your Committee: "Google UK Ltd provides sales, marketing and R&D support to Google Inc." The second allegation made by Reuters concerns the adverts that we have placed for staff to work in our UK office. We accept that the wording of some of these adverts was confusing and we are working to fix that.

Over the past few months we have engaged fully with your Committee in helping you with your enquiries. I hope this letter addresses any questions that were raised by the incomplete picture this article painted.

*Matt Brittin*

Vice President, Northern and Central Europe

1 May 2013

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### Written evidence from Ernst & Young

At the PAC hearing on 16 May, I agreed to respond to the Committee with further information on the following questions:

#### Q202–Q203

The figures referred to in Q201, to which Q202 refers, appear to be derived from page 46 of the 2013 Proxy Statement (Schedule 14A) of Google Inc. As requested in Q202, I can confirm that the Proxy Statement was filed by Google Inc. with the United States Securities and Exchange Commission on 24 April 2013. I am not authorised to provide further information about the breakdown of those figures.

#### Q206

In February 2013, The United States Department of Justice agreed not to criminally prosecute Ernst & Young US in connection with the marketing of individual tax shelter strategies for high net-worth individuals from 1999–2002. In doing so, the Department of Justice acknowledged that “[t]he wrongdoing in this case by a small group of professionals at EY represented a deviation from the more than 100-year history of ethical and professional conduct by EY and its partners.” Under the terms of the agreement, Ernst & Young US made a \$123 million payment to the United States.

#### Q214–Q215

See Annex I to this letter: Accounting for VAT via the “reverse charge” mechanism.

Finally, if the PAC would find it helpful to have explanations (possibly with worked examples) on other areas of taxation that are pertinent to its inquiry, please do not hesitate to contact me.

### Annex I

#### ACCOUNTING FOR VAT VIA THE “REVERSE CHARGE” MECHANISM

##### GENERAL VAT PRINCIPLES

VAT is a tax on consumer expenditure, collected at each stage of a supply chain. The general intention is that businesses should not be adversely affected by VAT, as VAT should be ultimately borne by the final consumer of goods or services.

VAT is accounted for in the UK under laws set by the EU. When a UK entity is involved in the supply or purchase of services, the VAT treatment of the transaction should be determined in accordance with EU VAT laws, as transposed into UK VAT legislation.

Under EU VAT laws, VAT on a cross-border supply of services should either be charged by the supplier, or “self-accounted” for by the customer under the “reverse charge” mechanism. Whether the supplier charges VAT on the supply or the customer self-accounts for VAT under the reverse charge mechanism depends on the type of cross-border service supplied and type of customer buying the service (eg. business customer or private individual), amongst other things.

The reverse charge is a mechanism by which a VAT registered person self-accounts for VAT due on a cross-border purchase of a service—the person effectively charges itself the VAT due on the purchase (by recording the VAT due on the purchase on its VAT return). If the VAT is recoverable, it can be recovered (via the VAT return) in the same way that VAT charged by a supplier would be recoverable.

##### ADVERTISING SERVICES

Below is an illustration of how VAT should be accounted for on the sale of advertising services by an Irish entity to a business customer in the UK.

##### *Sale of advertising services by an Irish entity to a UK business customer*

The Irish entity should issue a VAT invoice to the UK business. Neither Irish nor UK VAT should be charged on the invoice. VAT should be accounted for in the UK, where the services are “consumed” by the business customer. Under EU law, the UK business customer is required to self-account for the VAT due on its purchase of the advertising services via the reverse charge mechanism.

The UK business customer should charge itself VAT on the purchase by entering the amount of VAT due in boxes 1 (VAT due on sales and other outputs) and 3 (total VAT due) of its UK VAT return. If it is entitled to recover the VAT it has charged itself, it will also include the VAT in box 4 (VAT reclaimed on purchases and other inputs) of the same UK VAT return. The net value of the purchase should also be recorded in boxes 6 and 7 (net value of sales and purchases) of the UK VAT return.

If the company is fully taxable, the net effect of the reverse charge should be zero. This should be the same position as if the Irish entity had directly charged the UK business UK VAT on the sale of the advertising services—assuming the UK business customer can fully recover VAT, the net effect should be zero.

*Cost of advertising services invoiced by Irish entity—€100.*

*UK VAT self-accounted for by UK business customer—£17.12 ( $€100/1.1681 \times 20\%$ ) (ie, UK VAT at 20%).*

*UK VAT recovered by fully taxable UK business customer—£17.12.*

*Net VAT cost to UK business customer—£0.*

*NB: 1.1681 is HMRC's EUR:GBP exchange rate for May 2013.*

There is no net VAT cost to the UK business customer in this example. This is because the UK customer is not the final consumer in the supply chain, but is a fully taxable business, required to charge (and collect) UK VAT on supplies it makes in the UK to its own customers. In the event that those customers are the final consumer, with no right to recover VAT incurred on purchases of goods and services, they will bear the cost of the UK VAT in the supply chain.

#### *Purchase of support services by an Irish entity from a UK VAT registered business*

The UK business should issue a VAT invoice to the Irish entity. Neither UK nor Irish VAT should be charged on the invoice. VAT should be accounted for in Ireland, where the services are “consumed” by the Irish entity. Under EU law, the Irish entity is required to self-account for the VAT due on its purchase of the services via the reverse charge mechanism.

The Irish entity should charge itself VAT on the purchase via its Irish VAT return. If it is entitled to recover the VAT it has charged itself, this should be done in accordance with Irish VAT law.

The effect to the tax authorities does not change because the reverse charge mechanism is used. VAT is due in Ireland, as this is where the services are “consumed”. Under EU VAT law, the Irish VAT is accounted for to the Irish tax authorities by the customer (the Irish entity) rather than the supplier. The sale is outside the scope of UK VAT (as the services are consumed in Ireland) and so no VAT is due to HMRC.

*Cost of advertising services invoiced by UK business—£100.*

*Irish VAT self-accounted for by Irish entity—€26.87 ( $£100 \times 1.1681 \times 23\%$ ) (ie, Irish VAT at 23%).*

*Irish VAT recovered by fully taxable Irish entity—€26.87.*

*Net VAT cost to Irish entity—€0.*

*NB: Illustrative exchange rate of 1.1681 EUR:GBP used.*

Again, there is no net VAT cost to the Irish entity in this example. This is because the Irish entity is not the final consumer in the supply chain and is itself a fully taxable business. The final consumer is the one that ultimately bears the VAT cost.

23 May 2013

#### **Written evidence from HM Revenue and Customs**

1. **Q263 Stephen Barclay:** A few quick questions, if I may. When a major company operating in the UK has entered into a Dutch ruling, would you see the details of that Dutch ruling?

**Jim Harra:** I don't know whether we can automatically see them all. Most of the large businesses that we deal with are very transparent, and they will show us the rulings.

**Q264 Stephen Barclay:** Can you send us a note on that? Amazon is the most obvious example of when there was a Dutch ruling. There is some confusion over that, but it is difficult to talk about European co-operation if you do not have the details. I would be quite interested to have clarification, if I may.

**Jim Harra:** I will indeed.

HMRC's work to establish the basis on which the UK members of multinational groups transact with affiliated companies in other countries includes understanding the terms of any rulings from, or agreements with, other tax administrations that may affect the amount of profits returned in the UK.

HMRC is aware that the Dutch tax authority frequently gives tax rulings to Dutch-resident members of multinational groups. The Department is not automatically notified of such rulings; however, we expect companies to provide details of them on request and we can use our formal information powers to seek to obtain them if the company does not provide them to us voluntarily.

We also work successfully with other tax administrations, including our Dutch counterparts, to obtain this type of information under the Exchange of Information provisions of our bilateral tax treaties.

2. **Q265 Stephen Barclay:** Secondly, we have talked a lot about corporation tax loss. Obviously, the tax loss from VAT is bigger than the tax loss from corporation tax. How does your resource allocation compare between the two?

**Jim Harra:** The main issue with VAT is evasion rather than avoidance. That is both evasion by small businesses, but also more serious organised fraud—MTIC fraud—which I am sure the Committee has looked at in the past. A much larger proportion of resources are deployed on VAT than there would be, for example, on corporation tax by large businesses.

**Q266 Stephen Barclay:** Again, perhaps we can have a quick note on that. I am particularly interested in why we have not set up a specialist team focused on things such as carousel VAT losses in the way that some other European jurisdictions have.

**Jim Harra:** We certainly have a specialist team on what we call MTIC fraud, which is carousel fraud.

HMRC does not generally organise and deploy its compliance resources based on tax regimes. Our approach is to tackle compliance risks based on customer behaviour (avoidance, error, evasion, criminality, etc). Thus, for example, our SME caseworkers, Large Business Customer Co-ordinators and Customer Relationship Managers, Computer Audit Specialists, Criminal Investigators, etc. will frequently tackle risks on a “whole case”, cross-tax basis, advised as necessary by tax regime specialists.

The Department has a strategy for tackling Missing Trader Intra-Community (MTIC) VAT fraud (which includes VAT carousel fraud) and we have a dedicated MTIC National Co-ordination Unit, which supports the Director of Criminal Investigation in co-ordinating the work of the various operational units in HMRC, other UK government departments and authorities and other EU member states in preventing, detecting and tackling MTIC VAT fraud.

We estimate that the frontline caseworker resource allocated to managing risks of VAT non-compliance and Corporation Tax non-compliance in five of the most relevant operational units was 4,120 and 3,835 respectively in 2012–13, giving a ratio of 52:48 between VAT and CT compliance. Just over half of those working on VAT compliance were focused on managing the risks of VAT fraud.

3. **Q274 Ian Swales:** A very simple one from me. I know we have mentioned this before. With the way that VAT works we have a lot of offshore businesses selling into the UK. There must be many days in your office when you have the happy surprise of opening an envelope with a massive amount of money in it. How much is that? How much VAT do we collect in this country from offshore businesses?

**Jim Harra:** I don’t have that information to hand. Where it is business-to-business transactions, as was explained earlier, it is the UK business that accounts for that VAT under the reverse charge. Where it is a business-to-customer transaction, then for electronic sales new rules come in in January 2015 which will give more tax to the UK.

In response to this question about VAT collected from overseas businesses selling to UK consumers, a note is attached at Annex A setting out the VAT treatments in some detail, which it is hoped the Committee will find helpful.

## Annex A

### 1. VAT TREATMENT OF CROSS-BORDER SUPPLIES OF GOODS AND SERVICES

As well as providing the required information on the VAT yield from overseas businesses it might be worthwhile to also set out the rules that apply to cross-border supplies of goods and services to describe the context in which VAT is paid (or in some cases not paid).

The VAT system sets out rules to establish the “*place of supply*” of cross-border supplies of goods and services. The place of supply rules therefore determine in which country VAT has to be paid and are intended to prevent double or non-taxation.

There are different rules for goods and services. There are also different rules that apply to supplies made by businesses based outside the EU compared to those based in the EU and also differences between the treatment of supplies made to business customers and those made to private consumers.

### 2. GOODS

#### 2.1 *Supplies of Goods from outside the EU*

##### 2.1.2 Business to Business (B2B)

For goods exported by a business outside the EU to a business in the UK it will be the UK importer who is liable to account for duty and UK VAT. The importer will also be subject to VAT audits by HMRC staff. Total import VAT on goods from third countries amounted to **£22.9 billion** in 2012–13.

### 2.1.2 Business to Consumer (B2C)

Where a business outside the EU exports goods direct to a consumer in the UK it will be the UK consumer, as importer, who is required to account for duty and UK VAT.

The goods may be sent as individual packages by post from the supplier to the customer. In such cases UKBF officers establish what VAT and duty charges are due, which Royal Mail then recovers from the consumer before delivering the parcel.

Alternatively, imports may be sent in bulk and broken down into individual packages when they arrive in the UK.

The total VAT from both sources was **£77 million** in 2012–13 (this compares to £40 million in 2011–12 and £36 million in 2010–11—the uplift is due to the removal of Low Value Consignment Relief on mail order from the Channel Islands—see below).

#### 2.1.2.1 Low Value Consignment Relief (LVCR)

LVCR is an EU-wide scheme that applies to small consignments of goods which may be imported into member states VAT free—the underlying EU legislation prescribes a maximum value of €22. It is intended to relieve the administrative burden and cost of collecting small amounts of VAT on small value packages.

Evidence that this relief was being unfairly exploited led to a reduction in the monetary limit in the UK from £18 to £15 on 1 November 2011. In addition the scheme was withdrawn in its entirety for imports from the Channel Islands with effect from 1 April 2012.

### 2.2 *Supplies of goods from other EU Member states*

#### 2.2.1 Business to Business

A business based in another EU country that sells goods to a UK business will zero rate the supply in its own country. The UK business then accounts for any VAT due in the UK, at the UK rate.

#### 2.2.2 Business to Consumer

A business based in another EU country that sells and delivers goods to private consumers in the UK (eg through the Internet or through a mail order catalogue) is distance selling. The business will account for VAT in its own Member State. However, if the value of the supplier's distance sales to the UK exceeds £70,000 in a year it is required to register in the UK and pay UK VAT.

For supplies of certain excise goods such as alcohol and tobacco, the supplier must register and account for UK VAT irrespective of the value of sales.

### 3. NON-ESTABLISHED TAXABLE PERSONS

Businesses that have no establishment in the UK may have an obligation to register and account for UK VAT. This may be because they are, for example, EU businesses that have exceeded the distance selling threshold or perhaps an overseas business that has bought and sold goods that were already located in the UK. Such businesses may be registered as non-established taxable persons (NETP)—currently HMRC has 7,768 NETPs registered. In 2012–13 they declared a net total of **£2 billion** VAT. Of these 612 were making retail sales via mail order or the Internet and were responsible for net VAT receipts of **£44.8 million**.

As an alternative a NETP may appoint a Tax Representative or an agent to account for VAT on its behalf, this tends to be the approach adopted by large businesses, and the above figures do not include VAT declared in that way.

### 4. SERVICES

There are special rules for certain services eg those connected with land (which are taxed where the land is situated) and for passenger transport (which is taxed where it takes place) but the general rules are described below.

#### 4.1 *Supplier based outside the EU*

##### 4.1.1 Business to Business

A UK business that purchases services from a company located outside the EU is required to account for VAT in the UK under the reverse charge. It may be able to recover this VAT subject to the normal rules—see section 8 below. Section 8 below explains the reverse charge procedure in more detail as PAC members raised a number of questions about this in questions 156 to 172 of the PAC hearing on 16 May.

#### 4.1.2 Business to Consumer

For supplies of “electronically supplied services” (eg computer downloads) a non-EU business is required to register and account for VAT on all its supplies to EU private consumers.

Rather than having to register for VAT in each member state where it has customers, an overseas business can register for VAT in one member state and account for all of its EU obligations under a special regime referred to as VOES (VAT on Electronic Services).

The UK has 251 businesses registered for VOES in the UK (compared to 301 registered elsewhere in the EU) and in 2012–13 the total UK VAT declared was **£39.7 million**.

In considering this figure it has to be borne in mind that many of the major non-EU suppliers of electronic services have chosen to locate in Luxembourg and are registered for VAT there—see section 7 below.

For other types of services purchased by a UK private consumer from a company located outside the EU (in practice the range of cross-border services, other than electronically supplied services, consumed by private individuals is limited), there is no liability to UK VAT.

#### 4.2 *Supplier based in the EU*

##### 4.2.1 Business to Business

A UK business that purchases services from a company located in another Member State is required to account for VAT in the UK under the reverse charge. It may recover this VAT subject to the normal rules.

##### 4.2.2 Business to Consumer

A business in another Member State that supplies services to a UK private consumer will account for VAT in its home Member State—so no UK VAT is due.

### 5. CHANGES TO THE PLACE OF SUPPLY OF SERVICES—1 JANUARY 2015

With effect from 1 January 2015, EU businesses making supplies of electronically supplied services, telecommunications and TV and radio broadcasting to private consumers in other Member States will have to account for VAT in the countries where its customers are located.

This means that the UK will receive VAT from suppliers in other member states with UK customers, but UK suppliers with customers in other member states will no longer declare UK VAT on their sales.

We estimate that the changes will increase the overall UK VAT yield by an additional **£300 million** per year and protect up to **£5 billion** per year.

### 6. HMRC ACTIVITY

The growth of the internet has led to a change in shopping habits which make it easier for businesses to supply goods and, in particular services, cross-border. It is no longer necessary for a business to have any major infrastructure in those countries in which it wishes to trade. HMRC acknowledge this is an area of risk and it is one that we are focussed on.

#### 6.1 *Relocation of service providers within the EU*

Under the current rules, services supplied by EU businesses to private consumers are taxed in the Member State where the supplier is located. This gave rise to the risk of businesses moving to a low-VAT jurisdiction, such as Luxembourg, to supply electronic services to UK consumers. From 1 January 2015 this risk will be removed when the new EU VAT place of supply rules are implemented

In the meantime, HMRC has had success in challenging the intended/purported migration of some telecoms and broadcasting businesses to Luxembourg ahead of the 2015 changes intended to enable them to benefit from the lower VAT rates, when in reality these supplies were still made from the UK.

Businesses have the freedom to establish themselves in whichever Member State they wish so it is not possible to challenge the arrangements put in place by online businesses which have genuinely established themselves in low rate jurisdictions from which they are making supplies of e-services to UK customers.

#### 6.2 *Non-EU electronic service providers*

HMRC is closely monitoring whether non-EU e-service suppliers are failing to register for VAT and to pay tax on their supplies. We have little evidence that this is the case. Recently HMRC investigated a number of non-EU businesses that appeared to be making e-service supplies to UK customers without properly registering and accounting for VAT. The findings were that all the businesses tested were either registered for VAT somewhere within the EU, registered for VOES under a different name, had ceased trading, or were not liable

to register for the scheme. To supplement this, we are commissioning some more systematic analysis to test out these initial findings.

### 6.3 *Supplies of goods into the UK*

HMRC is currently undertaking a good deal of activity to identify businesses that are supplying goods in the UK without meeting their obligations to register and account for VAT. Information may be received from UK competitors who feel that they are at a competitive disadvantage but we are also using techniques such as the use of “web robots” to trawl the internet and identify sales that should be subject to UK VAT.

### 6.4 *International Cooperation*

It is now standard UK (HMRC) policy to negotiate and agree bi-lateral arrangements for the exchange of VAT/sales tax information alongside direct tax information with other jurisdictions. The UK is also a signatory to the multi-lateral OECD Convention of Mutual Administrative Assistance and the EU/Swiss Anti-Fraud Agreement, both of which allow for the exchange of VAT information. The UK is therefore increasingly well-placed to exchange VAT information with non-EU jurisdictions to strengthen taxpayer compliance and to help fight VAT fraud and to identify avoidance.

HMRC has a dedicated team responsible for EU VAT administrative co-operation and information exchange arrangements which aim to improve taxpayer compliance and support the fight against VAT fraud (including VAT MTIC fraud). In relation to VAT information exchange within the EU, the latest Commission figures show that HMRC fully answered 86% of information requests within the EU deadlines. When the PAC looked at this area in 2007, HMRC's performance was 55%. HMRC has outperformed every large Member State (those handling more than 1,000 requests per year) in this area for the last three consecutive years.

## 7. REVERSE CHARGE ON CROSS-BORDER SUPPLIES OF SERVICES TO BUSINESS CUSTOMERS

1. VAT is a tax on expenditure by final consumers. It is collected at each stage in the supply chain—each supplier charges VAT on the supplies it makes (output tax) and can recover any VAT it has paid on goods and services that it uses to make taxable supplies (input tax).

2. Where a UK business supplies services to another UK business, the supplier therefore adds UK VAT to the invoice and accounts for this VAT (output tax) to HMRC. The business customer, provided they are using these services to make taxable supplies, can recover the VAT charged (input tax). They do this through their normal VAT return—this shows the output tax due to HMRC and the input tax being recovered with the net amount then being paid to HMRC (or repaid to the business if input tax exceeds output tax).

3. For cross-border supplies to a business customer, VAT is accounted for under what is known as the reverse charge mechanism. For these supplies:

- The supplier does not add VAT to the invoice and does not account for VAT.
- Instead, the business customer is required to account for VAT as output tax on the supply that they have received.
- The business customer will also be able to recover this VAT as input tax, to the extent that they use the supply to make taxable supplies. This mirrors the position for supplies received from UK businesses.

4. This mechanism can be illustrated in the following example of a company that is based in Germany which is supplying services to a UK VAT registered business which then uses those services to make a taxable supply to a final consumer in the UK. If the VAT exclusive price of the services received by the UK business customer is £1,000 then:

- The German supplier does not charge German VAT.
- The UK business customer accounts for VAT in the UK—it therefore accounts for £200 of UK VAT.
- The UK business can recover the £200 as input tax.
- If the UK business uses these services to make a supply with a VAT exclusive price of £2,000 to a UK consumer, it will charge £400 VAT and account for this as output tax.
- The UK business in its UK VAT return will then include:
  - (i) £400 as output tax—on the supply to the final consumer.
  - (ii) £200 as output tax—this is the reverse charge on the intra-EU supply it received.
  - (iii) A deduction for £200 input tax—this recovers the VAT charged on the intra-EU supply given that it is being used to make taxable supplies.

5. The reverse charge mechanism applies across all EU member states. It provides a more streamlined way of collecting the correct amount of VAT on intra-EU supplies to business customers than the supplier charging VAT in the country in which they are established and the business customer having to recover that VAT from

the country in which the supplier is registered for VAT. This reduces compliance costs for both businesses and fiscal authorities. It also reduces the risk that VAT will hinder cross border trading in the EU.

24 May 2013

### Supplementary written evidence from Google

As requested, below please find Google's response to your request that we provide extra clarification to some answers given by Matt Brittin during the oral evidence session of 16 May 2013.

Some of the Committee's questions relate to a period of more than 10 years ago, cover hundreds of thousands of transactions, and refer to documents in the Committee's possession which we have not seen. Since receiving your questions, we have sought to review our legacy systems (some of which are no longer readily accessible or available) and older documentation as best we could in order to be as responsive to your questions as possible.

As discussed in our previous correspondence, we are grateful to you for agreeing to not publish or publicly quote the answer to Q138/177/178 on the grounds of commercial confidentiality.

*Q18. Can you provide details of where accounts were systematically transferred from Google UK to Google Ireland?*

Clients in the UK contracted first with Google Inc., then with Google Ireland Ltd. Since Google UK Ltd. had no authority to contract with UK customers, and Google UK Ltd. had no systems in place to bill UK customers, there was no systematic transfer of UK customer accounts from Google UK Ltd. to Google Ireland Ltd. Starting in 2004, Google Inc. commenced transferring its accounts with UK customers to Google Ireland Ltd.

*Q22, 61, 62. Can you trace invoices sent from London/Were any invoices sent from the UK?*

Although there may have been instances of invoices sent from Google UK offices, we have thus far been unable to locate any record of invoices issued in the name of Google UK Ltd., and our invoicing systems were not set up to bill on behalf of Google UK Ltd. Authorised invoices were issued in the name of Google Inc. or Google Ireland Ltd., and instructed customers to remit to one of those two entities.

The presence of UK addresses on some documents may have caused confusion. For example, some invoices may have required that customers make payments into a Google bank account at Citibank on the Strand. That account, however, was in the name of Google Ireland Ltd.

In addition, the Committee may have seen some documents likely to be what we refer to as "insertion orders", which were not invoices but rather orders reflecting the advertising services requested by the client bearing a UK address in the upper left hand corner. Before the creation of Google Ireland Ltd., the insertion orders we have located and reviewed thus far contained links incorporating, or attached, Google Inc.'s terms and conditions. We have thus far been unable to locate any insertion orders signed in the name of Google UK Ltd.

We have identified rare instances in 2006 where third party vendors used by Google for charging credit cards held by advertising customers erroneously made charges in the name of Google UK, but remittance for any such erroneous charges were paid into bank accounts in the name of Google Inc. or Google Ireland Ltd., and not Google UK Ltd.

*Q101. What percentage of sales by Google Ireland is through agencies?*

Approximately 60% of revenue from UK advertisers came through agencies for the year 2012.

*Q125, 127. Were people asked to pay in sterling into Google UK bank accounts?*

We enable our customers to choose to pay for advertising with Google in their local currency, including in sterling. If a customer chooses to pay in sterling by wire transfer, the invoice would instruct the customer to remit payment to a Google Ireland Ltd. owned bank account located within the UK.

*Q148, 149. Do you have an agreement with the Irish Government regarding the withholding of tax?*

No.

*Q150, 151. What tax rate do you pay on transfers from Ireland to Bermuda/Do you just transfer from Ireland to Bermuda without any tax implications?*

We do not make direct transfers of royalty payments or other payments subject to withholding tax from Ireland (ie, Google Ireland Ltd. or "GIL") to Bermuda (ie, Google Ireland Holdings or "GIH"). Rather, we make transfers from GIL to Google Netherlands Holdings BV ("GNBV"), and from GNBV to GIH. No withholding taxes are payable on these transfers.



Our use of GNBV as part of our corporate structure is a legacy from when we set up our international business over a decade ago. We structured it that way because of concerns about potential Irish withholding taxes. As mentioned in our previous testimony we do not believe that our use of GNBV has a material effect on royalty payments or other payments subject to withholding tax from GIL, primarily because of changes made in 2010 to Irish tax laws and regulations.

Q184. *Did Ernst and Young help you to design your corporate structure?*

We used an external law firm as our primary advisor on the design and implementation of our corporate structure. Ernst and Young has long provided Google with a range of consultancy advice on many issues over the years, including advice relating to our corporate structure and related tax matters.

3 June 2013

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