

The Channel Island and Low Value Consignment relief - g...

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There was a recent discussion on this blog about the history of Low Value Consignment Relief - the VAT system that has been systematically abused by companies round tripping goods with a value of less than £18 into the Channel Islands for almost immediate return to the UK without VAT being charged.

Richard Allen, [who has done more to campaign against this abuse](#) than anyone, sent me a note as a result, and I think it well worth sharing as it sets out all the facts on this issue. I reproduce it here with his permission:

With the recent sale of Play.com, the stalled floatation of Thehut, the failed sale of Healthspan and the sale of Moonpig.com I am sure many of your readers may have come to the conclusion that the sale of these Channel Island based retailers may have some connection to the UK Governments announcement that it intends to end the abuse of Low Value Consignment Relief later this year. For what seems like an eternity now online retail in the UK has had to quietly suffer a growing market distortion caused by the abuse of this EU import VAT relief. The resulting market distortion has gradually pervaded every aspect of music retail ballooning like a giant oppressive elephant that nobody wanted to admit was crushing the very life out of our long established UK music retail. Over time UK music retail merrily skipped off to Jersey and Guernsey leaving those retailers unable to make the same journey, to their VAT enhanced demise.

LVCR, contrary to the popular myth was not introduced to help the horticultural industry. That myth has arisen due to the fact LVCR was confused with the VAT prepaid scheme that was introduced to help the Channel Islands horticultural industry in 1973. This prepaid scheme allowed Channel Islands companies to prepay VAT in advance, originally with VAT prepaid stamps but later through a computerised system. Another urban myth concerning this trade is that LVCR was introduced to help the Channel Islands economy. Neither of these assertions are true and the simple fact is that LVCR is an administrative relief intended for the use of member states to reduce their VAT collection costs. It would be entirely illegal to apply it for the benefit of the Channel Islands as that would be an abuse contrary to the EU Treaties and its purpose.

What went wrong with LVCR and the Channel Islands is that since it is an administrative relief and since the Channel Islands already had a pre-paid VAT scheme the application of LVCR in 1983 was entirely unnecessary. There was no administration to be relieved since VAT was pre-paid and there was no cost for the collection of VAT. Today the entire pre-paid system is computerised and even more efficient.

It was clear from the very start that the position of the Channel Islands — an English speaking territory with UK currency - within the EU free trade area and within the UK postal system would probably result in the abuse of LVCR. The LVCR directive allows member states to exclude mail order goods and it would not have been difficult for the UK to have excluded the Channel Islands from LVCR right from its introduction in 1983, since VAT could have been collected at no cost with the existing pre-paid scheme. Quite why LVCR was allowed to the Channel Islands is a mystery. I'm sure the current abuse was deliberately engineered allowing the Islands fulfilment industry, which at that time thrived on cheap subsidised postage, to gain a further advantage from its introduction.

For many years the use of LVCR to avoid VAT was a well kept secret and flowers and plants already in free circulation in the EU were being exported to the Islands from the UK and other EU locations (mainly Holland) so they could be sold by mail order VAT free back into the UK. The 1997 HMRC VAT Assurance Review of Channel Island Goods reached the staggeringly unsupportable conclusion that nobody would circular ship goods via the Channel Islands to take advantage of LVCR because it would not be viable! Exactly how this document reached this ludicrous conclusion is unclear but no doubt somebody with an interest was exerting influence. I understand that the Channel Island Postal services regularly wined and dined senior UK civil servants.

*By the late 1990s Play.com had taken advantage of LVCR and the cat was out of the bag. A fairly well kept secret was now becoming common knowledge. By 2005 the practice was so widespread and so out of control that the market distortion it was causing in the UK was forcing everybody offshore. At this point the UK Government really should have acted and removed LVCR from the Channel Islands... but they didn't because it was politically embarrassing to have to end it (voters like cheap CDs).
Another urban myth is the suggestion that the UK will lose money if LVCR is removed. This incorrect and misleading statement has been propagated by The Channel Islands and incredibly by the previous UK Government. Firstly nobody bothers sending much over £18 from the Channel Islands anyhow since the fraud is now so sophisticated that items over £18 are shipped from a UK warehouse. Why would anybody send an item that had VAT due on it on a round trip via the Channel Islands to a UK customer? Secondly if LVCR is removed and all VAT is prepaid in the Channel Islands under the pre-paid scheme, then there is no cost of collection and no loss of VAT. It is only the existence of LVCR abuse that is losing VAT and the market distortion it has created has skyrocketed the loss of VAT over the last 15 years. Originally only a small amount of VAT was lost as the result of a few horticultural retailers scamming the system but now a vast amount is lost as a result of every major retailer in the UK having located to the Channel Islands. How can that possibly be a cost benefit to the UK ?*

The main effect of the removal of LVCR will be the collapse of the Channel Islands fulfilment industry because there would be no reason you would want to fulfil anything from the Channel Islands as there would be no advantage to it. I'm sure there will be few tears shed over that. Once the deliberate circular shipping has been ended there would be few packages for HMRC to inspect. More importantly the cost advantage arguments have always been based upon the argument that LVCR can only be altered unilaterally i. e . not just for The Channel Islands but from all locations outside the EU. That is not so, as I will explain.

The LVCR directive was first introduced because member states wanted the option of excluding low value imports from VAT if the cost of VAT was greater than the cost of collection. However in giving member states of the EU the right to exempt items from VAT the EU included in the LVCR directive a non-discretionary obligation (Article 1) for member states to prevent LVCR from being abused by retailers wanting to evade or avoid VAT. Mail order goods are specifically highlighted in the directive and member states are allowed to exclude them. The result of allowing evasion and avoidance is distortion and in the recital to the LVCR directive the member states obligation to prevent evasion and avoidance is put in context; "whereas the exemptions on importation can be granted only on condition that they are not liable to affect the conditions of competition on the home market". This sentence on its own is not an obligation however the overall result prescribed by the directive is clearly an obligation. The intended prescribed result of the LVCR directive is the application of an administrative exemption from VAT on low value imports into the EU that is not likely to affect adversely the conditions of competition on the home market. That result has clearly not been reached in the case of the Channel Islands where LVCR has been abused for many years and to an extreme degree seriously damaging competition on the home market.

There is a myth that Channel Islands retailers like to circulate which argues that the UK could not just remove LVCR from the Channel Islands as it would be illegal. If LVCR were being applied correctly and circular shipping was not taking place then that could be argued. However circular shipping is taking place and on an industrial scale and LVCR is being abused by mail order from the Channel Islands. Because of that blatant abuse the UK is perfectly within its rights to exclude the Channel Islands mail order goods from LVCR in order to uphold its obligation to prevent evasion avoidance and abuse. My understanding is that the EU has clarified that point to the UK and reading the legislation it seems clear that such an action would be entirely legal and justified.

The basis of the complaint that RAVAS put into the EU Commission in 2007 was that UK Government had failed to prevent LVCR being abused. It took a while to work its way through the system and deal with the inevitable denials but in the end the evidence was overwhelming.

Hopefully we are about to see the end of LVCR abuse although the current abuse of LVCR in relation to platforms such as Amazon Traders and eBay also needs to be

addressed. It's about time the UK Music industry worked with the UK Government to prevent VAT avoidance being used as a method of competition. As we have seen its ultimate effect is to devalue the product and reduce margins to unsustainable levels.

Ultimately by working with and supplying tax avoiders both distributors and record labels only have themselves to blame. The tears shed for HMV by major record labels who are supplying TV advertised offshore tax avoiders are hard to take seriously and the resultant negative effect on UK retail should hardly be a surprise.

Regards

Richard
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