

The GAAR Interim Advisory Panel

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As many will know legislation to create a General Anti-Abuse Rule (GAAR) [will be included in the Finance Act 2013](#). HM Revenue & Customs has now [announced the membership](#) of the interim committee that has been appointed to review, amend if necessary and approve the initial guidance notes which will accompany the legislation. I am pleased to have been asked to serve on that committee.

As many will know, I have reservations about the proposed GAAR and as a result drafted [an alternative proposal that Michael Meacher presented to the House of Commons in September 2012](#). That proposed a much broader General Anti-Avoidance Principle, and that Bill still remains before the House of Commons at present, waiting for its second reading. However, pragmatically, I am well aware that Michael Meacher's bill will fail and that the government's currently proposed legislation, or something remarkably similar to it, will reach the statute book.

The result is that when Graham Aaranson discussed membership of this committee with me I was presented with a dilemma. Whilst I would clearly prefer legislation that goes a lot further than that which is proposed, I respect the fact that the current proposal, based as it is on Graham's hard and unpaid work, is, based on his judgement and that of ministers, the best that is achievable and the most appropriate for the UK at this time.

Graham, and the government, were keen that civil society be represented on the committee tasked with advising on implementation of the GAAR. That is why David McNair of Save the Children has been appointed to the committee, and why I was invited to join it as well. I welcomed that approach: it is, I think, appropriate that those with differing opinion be consulted in this process. It is out of constructive debate between those who do not agree that most progress is made. I have therefore accepted the appointment.

In doing so I accept that I will be advising upon and assisting the implementation of legislation that does not reflect all I would wish for. So be it; it is a fact of life that one does not always get you wish for. It's also true though, that as I said when welcoming Graham's proposals in November 2011, that this GAAR is better than no

GAAR: I am quite sure of that; I reiterated that point when giving evidence in the Lords this week. In that case, whilst I have used what some undoubtedly think robust language in opposing it, for that is what happens in the course of debate, I have also now given a clear commitment that I will offer my best professional judgement to this new committee when addressing the issues on which it is asked to comment. If, as I think, the currently proposed GAAR is an important first step on the way to a much better General Anti-Avoidance Principle then it is my wish that this new GAAR work as well as is possible, whatever reservations I have about it in its current form.

Having said this I will also now cease to comment on any detailed matters relating to this issue: committees of this sort have to work confidentially. Graham Aaranson has kindly agreed that I may discuss the broad principles inherent in the GAAR and my preferred alternatives but I stress that as to detail I am bound to confidentiality and will not be discussing GAAR related issues here. That does not mean I have changed my mind on the desirability of further developments; it means I have accepted that the task I have now engaged upon is to use my best judgement to ensure the existing proposals work to best effect. It is my wish, and I am sure the wish of all who have concern about tax avoidance, that they do just that.