Funding the Future

Google: the aftermath of over three hours of hearings

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I wrote this morning about the issues I expected to arise during this mornings Public Accounts Committee hearing on Google. The hearing has just finished as I wrote.

I suspect that of the three parties today Google would do well and HMRC would do worst. I think it was the other way round.

Google did badly. Matt Brittin of Google conceded:

* He has a UK sales team - and he referred to them as such

* They can negotiate prices

* They deal with up to 70% of all sales

* They are more senior than and better remunerated than the Irish teams who supposedly close the deals

* The teams do not agree prices in the Uk or Ireland - in which case his defence that in most cases these are not set in the Uk is utterly irrelevant

* Google customers think they are being sold to

* The UK team have sales commissions

* This team is managed in the UK

* HMRC last called two or three years ago

* On may points Google would have to send clarification.

His defence remained that because the contract is Irish that's the be all and end all of the matter.

The PAC had evidence that:

* Google has sold direct from UK

* Google staff say they sell

* Google briefs UK media sales agents about re-selling in the UK (interesting they can re-sell what is not here)

* Google claims about the Reuters story at the start of their evidence were incorrect

What was not resolved:

* How the sales process is handed over from the UK to Ireland (which would have been very useful)

Ernst & Young were shifty. They talked "hypothetically" which was absurd: they should have got Google consent and Google looked daft for not giving it. However, in effect they agreed they had advised Google on and then audited the structure they used and were happy with it. At this point the PAC sought to tear EY credibility apart, which it seems John Dixon had not anticipated and seemed to fall apart about. The point was in the end a simple one: the PAC clearly did not see Ernst & Young as credible.

Then came HMRC:

* Lin Homer tried to see HMRC judgements were good - relying on this morning's Goldman Sachs court case, which clearly says they were not. It was an own goal

* HMRC could use more resources

* HMRC have never challenged a digital company on permanent establishment (which Homer never said properly). They claimed tehy win 86% of cases. But that's because they nly take the winnable ones - as is now all too obvious.

* HMRC do audit on site - as Google had confirmed. But this sometimes lead to results that the public did not understand

* This matter had to be resolved internationally.

What was not resolved:

* What will happen if the OECD do not effectively tackle this problem which is likely

* What role a General Anti-Tax Avoidance Principle could play in tackling this

* Why Google is not in the tax gap

* How HMRC can communicate better.

So, to a summary. I felt:

1) Google made a complete hash of this. If they have not lost the permanent establishment issue it is very obvious that the sales process really is run from the UK.

2) Google have laid themselves open to HMRC attack

3) E&Y simply look shifty and left the profession looking hopelessly on the wrong side

4) HMRC are under resourced, poorly lead, too conceited and need the courage which they will not have under the current leadership to tackle the big issues in tax and to demand the right tools to tackle abuse.