

Google, the Public Accounts Committee, and what to expect..

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Google are back before the Public Accounts Committee. It's all the fault of Reuters journalist Tom Bergin who didn't believe Google's evidence to the PAC that they do not sell in the UK, [and found plenty of evidence to back up his suspicions](#).

The nub of the issue is a simple one. Google UK claims it never makes sales to UK customers. It says it markets the services provided by Google Ireland which makes the sales, but says it does not operate **in** the UK. It says it sells **into** the UK.

The difference between in and into is vital. If Google Ireland only sells into the UK but does not as such make sales here then the profits from those sales can't be taxed here.

If it did conclude the sales here then it is taxed on the profits here.

And if Google UK's staff make the sales for Google Ireland here then Google UK then simply becomes the paying agent for the staff of what is called a permanent establishment of Google Ireland in the UK and that also makes the Google Ireland operation taxable in the UK on the staff it employs here.

So the question is does Google sell in the UK or not. And remember, it has 700 or so sales staff here, compared to many fewer serving the UK in Ireland. The odds against the sales really being made in Ireland are stacked against it by sheer numbers, but as Tom Bergin found large numbers of these UK staff think they're selling and not marketing.

The difference is important then. Marketing according to my short OED is:

the action or business of promoting and selling products or services, including market research and advertising.

It creates a feel good factor that assists a sale.

Selling closes the deal, sets the price, determines the delivery and so on.

And as Reuters note:

In late March and early April, the website advertised dozens of London-based sales jobs, whose responsibilities included "negotiating deals", closing "strategic and revenue deals" and achieving "quarterly sales quotas."

That does not look remotely like marketing; that looks like selling. And the reality is that if these deals are closed face to face in the UK with the details then just being mailed off to Ireland for contractual purposes Google is in deep trouble. And if they can hold their line they'll survive, but Amazon will be next.

So, what's likely to happen? Margaret Hodge has three witnesses: Google, Ernst & Young and HMRC.

Google will stonewall. They'll say Bergin is wrong. They'll say their staff are using shorthand for what they actually do. They'll say they only market. And when Hodge gets heavy and asks for detail I suspect they'll say it's commercially confidential and refuse to discuss. If they do, they've lost. Only absolute openness and being right will win this one for them.

The questions to E & Y will be about whether they advised Google to do this, how they audited the deal and what evidence they sought to support the view that Google's claims were right and whether they were auditing the form of the contract and not its substance. With luck they'll question what E & Y told HMRC, but I suspect that will be blocked as client confidential in which case the committee will have to fall back on questioning how audits in particular are undertaken.

And HMRC? They'll say they cannot discuss Google. So it will be systemic again and the focus will be on what evidence HMRC seek to secure from their client relationship managers on a large company's site. These people have frequent contact with a company. The question is whether they're cosy relationship people or bloodhounds checking to see whether the claims the company makes are appropriate, or not.

I suspect Google have the best chance of blocking. E & Y and HMRC can't. There are systemic issues for them. And since the tax risk in Google comes entirely down to this one issue the targeting is easy. The question is how did they make sure Google did not sell here when all the evidence suggests and all common sense and 720 people on the ground who have sales targets and look like they close sales deals and have sales targets all suggest they do sell here?

It's not an open goal. And countless hours will have gone into briefing the defence. But Google are on a sticky wicket. I think you know which side I'm on.

I'll be live tweeting the events.