

Public Accounts Committee

Oral evidence: Tacking online VAT fraud and error, HC 312

Wednesday 13 September 2017

Ordered by the House of Commons to be published on 13 September 2017.

Watch the meeting

Members present: Meg Hillier (Chair); Bim Afolami; Geoffrey Clifton-Brown; Martin Day, Chris Evans, Caroline Flint; Luke Graham, Gillian Keegan; Nigel Mills; Layla Moran; Gareth Snell.

Max Tse, Executive Leader, National Audit Office, Adrian Jenner, Director of Parliamentary Relations, National Audit Office, Leena Mathew, Director, National Audit Office, and Marius Gallaher, Alternate Treasury Officer of Accounts.

Questions 1-140

Witnesses

[I](#): Richard Allen, Leading Member of Retailers Against VAT Abuse Schemes (RAVAS), and Professor Rita de la Feria, Professor of Tax Law at the University of Leeds.no, a

[II](#): Jon Thompson, Chief Executive and Permanent Secretary, HM Revenue & Customs, Jim Harra, Director General, Customer Strategy and Tax Design, HM Revenue & Customs, Steve Dishman, Vice President for Taxes, Europe, Amazon and Joe Billante, Vice President and Chief Financial Officer for EMEA, eBay.

Written evidence from witnesses:

– [Add names of witnesses and hyperlink to submissions]

Report by the Comptroller and Auditor General

Investigation into overseas sellers failing to charge VAT on online sales (HC 1129)

Examination of witnesses

Witnesses: Richard Allen and Professor Rita de la Feria.

Q1 Chair: Welcome to the Public Accounts Committee on Wednesday 13 September 2017. We are a newly re-established Committee—we were established formally on Monday night—and today we are examining VAT fraud and evasion by businesses selling on online marketplaces.

HMRC estimates that taxpayers are losing up to £1.5 billion in VAT a year through fraud and error in online sales. This is having a big impact on honest UK businesses, which are being undercut unfairly, with some going to the wall and having to lay off staff. It is also depriving public services of vital funds at a time of austerity. Even the lower estimate by HMRC's own figures—a loss to the Exchequer of £1 billion a year—would cover approximately a year of the increase in public sector pay that we are discussing in Parliament this week.

With Brexit looming, British business needs more support to make sure we maintain our competitiveness. None of us wants to see the UK as a soft touch. This is a really important issue for individual businesses and for taxpayers in general.

We have two witness panels today. Our first panel is made up of Richard Allen of RAVAS, an organisation that campaigns on this issue, and Professor Rita de la Feria, professor of international tax law at the University of Leeds. A very warm welcome to you.

Mr Allen, could you kick off by explaining the impact on businesses that are trading legitimately and paying their VAT here in the UK?

Richard Allen: Yes. First, may I say that it is fantastic that the Committee is looking at this issue? We have been trying for a long time to get this on a high-profile radar. I would like to thank Meg, Chris Heaton-Harris, Charlie Elphicke and my MP, Cheryl Gillan, for really pushing this.

The issue affects business because 20% is a large sum of money—in fact, it is an entire margin on many products. If you are facing competitors that are avoiding that 20%, you cannot compete, so the impact on business is extremely bad, particularly if you are a British business competing against somebody importing goods and evading VAT.

Q2 Chair: Rita—sorry, Professor de la Feria—

Professor de la Feria: Call me Rita.

Chair: I think the people watching will want to know that you are a professor. In your experience, do you think HMRC's estimates are in the



HOUSE OF COMMONS

right ballpark? Do you have any experience of what is happening in other countries to tackle this issue?

Professor de la Feria: It is very difficult to measure fraud; that is the first point. If we knew exactly where it was, we would go after it. All we can do is make estimates. I assume that HMRC's calculations are sophisticated, with several variables, so until I have proof to the contrary I tend to rely on their estimates of the size of the fraud.

As regards the way it is being tackled, there are some concerns. First, a recent OLAF report accused HMRC of not properly policing the borders and of allowing goods to enter the European Union via the UK without any tax on them. There is also evidence, across various actions that HMRC have been taking, that indicates to me that their primary concern has been to collect revenue and disregard the other potential costs of fraud.

In many situations, going after the revenue is the same as combating fraud—if you go after a restaurant because it has not paid taxes, you are helping to collect more revenue and ensuring at the same time that other restaurants are on a level playing field with the fraudster restaurant—but in some situations that is not the case. If you are going after the revenue, you might not care so much about the small amount of VAT that is lost on online sales, because each sale is of a small amount. Therefore if you are just looking for the revenue, you may think that it is not worth the costs of policing those sales. But the actual fact is that beyond those revenue costs there are massive other costs, as Richard has said, to small traders, and to a sense of equality and fairness in the system, which is being undermined by essentially not enforcing the tax in situations where it might not be so cost-effective to do so. But there are other advantages.

Q3 **Chair:** Richard Allen, you represent the Retailers Against VAT Abuse Schemes. These are small items—small amounts of money for each item—but how many retailers are actually being affected by this? Can you give us an indication of how many have been put out of business as a result?

Richard Allen: It is difficult to estimate how many people are affected by this, but it must be a large number. The reason Retailers Against VAT Abuse Schemes exists is because we weren't seeing any action from HMRC. I'm not here to criticise HMRC, because they have their own resourcing issues, but the reality is that we saw no action whatsoever. I've lost count of the number of people who have contacted me saying that they've been affected by this. You need only go on to Amazon or eBay and buy things, and you can easily find products where there is no VAT. In every sector I could think of, where the goods are of a relatively low value, this is happening, and it's expanding because there's money to be made.

Q4 **Chair:** Okay, and you provided this information to HMRC, presumably?

Richard Allen: Yes. We've been providing information for quite some time. I teamed up with another group called vatfraud.org, which has produced a very extensive website full of information on this. I placed a



HOUSE OF COMMONS

test order before this meeting and I ordered an item from a company on Amazon that we know isn't charging VAT—they admitted it. It was gift-wrapped by Amazon, so this is a gift-wrapped fraudulent transaction. It turned up the next day; the money went to China. It is very easy to find these companies doing this, and I think that proves it. That transaction wouldn't happen if that supply chain wasn't in existence.

Q5 Caroline Flint: Would I be correct in saying that when the purchaser bought that, the money would have been handled, potentially, by PayPal or someone, and a fee would have been deducted before sending it back to the seller?

Richard Allen: The money would go straight to the seller in China, and the item came from a warehouse in Fife. Sorry, no, this one is American, actually. The money went to an American seller. The item came from Fife the next day. As I say, I requested gift-wrapping; the gift-wrapping charge was made to Amazon.

Q6 Caroline Flint: Amazon, sorry. But Amazon do sort of handle the money, unlike—sorry—eBay, and if they take their charge, then the money goes to the seller.

Richard Allen: The charge was made to my card by Amazon payment services, so Amazon took the money.

Q7 Chair: What do you think then, Rita de la Feria, about HMRC's reaction to this? You said that it seems as if a lot of small transactions might not be worth their while pursuing. Do you think they are doing enough, and what more could they do to tackle this problem?

Professor de la Feria: I suspect that they aren't. I am sympathetic to their situation. Like Richard, I am not here to accuse HMRC of not doing enough—I am sympathetic to the problem of costs—but my sense is that this is the cost-benefit analysis that they are making on each of these enforcements. There is a problem with that. It is very proper and suitable that cost-benefit analyses are made prior to writing the law down. Tax policies should be guided—as with other fundamental issues, such as equity and neutrality—by efficiency. You shouldn't try to collect taxes on something where enforcing the tax will cost you more than what you're going to get. However, enforcement shouldn't be guided by that, because from the moment that the law is written down, it should be applied to everyone in the same way.

Chair: Okay. Of course, we have had a change in the law in the last year, where there is a 30-day window for the online marketplaces to identify a company not registered for VAT, and to get them registered or kick them off the platform. Caroline, do you want to pick up on that?

Q8 Caroline Flint: Professor, how effective is that going to be? Some have suggested that it will just tip people off, and that they might therefore shut themselves down and reform as another company and carry on these practices.



HOUSE OF COMMONS

Professor de la Feria: That is possible. It is possible that these online traders will start using other online platforms that are less well known—not Amazon or eBay. It is also true that the majority of business goes through those platforms, so there will be people who will go to the smaller, darker or more hidden platforms on the web, but the majority of us will still buy on Amazon or eBay. If we can curtail the fraudsters' use of those platforms that are most used by the public, I would say that we will get a big chunk of the fraud. There will be something that is missed out, but it is still worth pursuing that avenue.

Q9 **Chair:** Richard Allen, what do you think about the 30-day rule?

Richard Allen: I was actually asked about that before they introduced it. I had a problem with it because it is dressed up as third-party liability, which should be the same as, say, stolen goods: if you handle stolen goods, you know that you will get into trouble. The problem with this rule is that HMRC has to spot the fraud first, then issue a notice, then Amazon or eBay has the choice of removing the seller and if it does, it avoids the liability. In my view, no one is ever going to be liable, and HMRC will never get the VAT back because the VAT evaders run off—we know that goods are being sent back to them even when they are closed down.

It is important to remember that everybody expects next-day delivery now, but you cannot do next-day delivery from Lithuania. That is why those goods are sitting in warehouses in the UK—because people want their delivery the next day. If you clamp down on that, there might be competitors who offer VAT-free transactions, but they just won't be convenient and will have to come by a difficult route.

Q10 **Chair:** Before I bring in Nigel Mills, I should add that you were talking about eBay and Amazon, who are represented by witnesses today. There are many online marketplaces and platforms.

Richard Allen: There are others, yes.

Q11 **Chair:** They just happen to be two of the largest with a big reach. That is why they are witnesses today; we are not singling them out.

Richard Allen: They just happen to be the dominant ones.

Chair: There are plenty of others.

Q12 **Nigel Mills:** Professor, my first question relates to your extensive work around the world. Do you think that HMRC is ahead of the curve in tackling this kind of fraud, or is it behind and catching up? Is this a uniquely British issue?

Professor de la Feria: It is not uniquely British; everyone is struggling with the digital economy, which appeared very quickly. Systems are having difficulties adapting to it, so the issue is not unique. Some of the trends that we witness in regards to HMRC's enforcement can be seen in other tax authorities, not only in Europe but in Canada and Brazil. There is the same kind of attitude towards the cost-benefit analysis of enforcement that takes efficiency as the prime criterion for enforcement. You can see



those trends in other countries as well, but that does not make it right. Regarding policing the borders, the report that we are getting at a European level is that the UK borders are some of the worst-policed in Europe.

- Q13 **Nigel Mills:** Do you have any examples of countries in the world that have found a way to make sure they can collect their various sales taxes or VAT on online transactions?

Professor de la Feria: In Europe, the new third-party liability rule is basically an attempt to do that. I can talk more about the third-party liability rule if you want, but in essence it means that if you knew or should have known that fraud had been committed, you are liable for the VAT that goes uncollected. That rule is a move in that direction to try to address the potential for frauds coming from outside Europe. If they are in Europe, it is easier to track them down, but if they come from outside, the enforcement is almost impossible, which is why we have developed that rule in Europe. Australia has also developed its own methods with the so-called Netflix tax. So there are different countries trying to address the problems. I do not think that the UK is unique the situation it is facing, or that the law is particularly wrong. Richard and I do not see eye to eye on this, but I think that the new legislation that has been introduced will help. It won't solve all the problems, but it will be helpful. I do think there is a serious problem on enforcement, so I do not think that the law is wrong, but that the enforcement is not up to scratch.

- Q14 **Nigel Mills:** Do you think HMRC has tried to use the existing laws as strongly as it could? There is some suggestion that it could use the Kittel principle to try to get the money out of the marketplaces. I am not sure the agent/principal rules were quite designed with this situation in mind, where you effectively have the agent fulfilling the transaction and acting on behalf of the buyer if there is a dispute with the seller, with all the vetting and compliance issues that are going on. Do you think the law could be interpreted a bit more strongly to ensure that we do not suffer this level of VAT fraud?

Professor de la Feria: That is my opinion. That is good.

Richard Allen: Can I comment on that? That is an evidential issue as to whether or not marketplaces know what is going on. My own view, from what I have seen, is that nobody has really taken this issue to task and basically said, "You must know this is happening"—this document, for instance. I personally would find it difficult to understand how it could be argued that you did not know this thing was going on on your marketplace.

I know there is a court case at the moment in America on sales tax in Georgia. The authorities there are taking Amazon to task, saying, "You are actually the supplier, not these third parties." That could go to the Supreme Court, apparently.

- Q15 **Nigel Mills:** Do you think there is a legal case that Amazon, eBay, Alibaba or whoever is actually making the sale and should account for the VAT?



Professor de la Feria: This is not exactly the issue as regards online fraud—this is, I guess, a separate issue—but I think there are two transactions at stake, from a legal perspective. There is a transaction between the seller and the customer, and there is another, separate transaction whereby the platforms supply intermediary services; they basically put together the seller and the customer. That is valid not only for Amazon and eBay but for Uber or Google—a series of other digital businesses. I think there is a separate supply that should be subject to VAT. This is not an issue of fraud; it is an issue of interpreting what is the scope of the tax, and I do think that the scope of the tax includes that.

We were just talking outside about how the Estonian presidency of the EU is looking at this particular issue, and whether these digital businesses should be subject to VAT on those intermediary services. I said as recently as May in Brussels that that is my opinion—we should.

Chair: I would like to say that we are working with our sister Committees, including of course the Treasury Select Committee, to make sure that we deal with the value for money and collection of this sort of tax, while they will be dealing with the policy. We will make sure that we feed your comments to them, Professor de la Feria.

Nigel Mills has one quick point, and then it will be Gillian Keegan. I remind members of the Committee that we have just under 10 minutes left for this session.

- Q16 **Nigel Mills:** I was just going to clarify something. What I was alluding to was whether the two transactions are these: Amazon sells to buyer, and then has a separate transaction with the seller, so you can get VAT on the full transaction. I think you are suggesting that VAT on the second transaction will be a very small amount for that service. What is being defrauded is the VAT on the amount the buyer pays, isn't it? That is what we want to get to.

Professor de la Feria: The amount might be small, but the issue is that they are providing a service—a value added—otherwise they would not exist. Otherwise people would just meet, literally on the market, and sell to each other, but they don't. They are supplying a value added to the production chain, and that value added should be recognised for VAT purposes.

Chair: It is an important point but a policy issue that is beyond the reach of this Committee. We will bank that as an area of interest.

- Q17 **Gillian Keegan:** Professor de la Feria, you mentioned that quite a lot is going on globally, and it appears that the legislation in many parts of the world is not written with this in mind. You mentioned Georgia and Estonia. We have also had some very recent rule changes, in September last year. In your opinion, how long is it before we have the data to show the effectiveness of what has been put in place so far, and also the results of some of these other studies and court cases that are happening? In other words, if you were to set a target for when we

should try to have this closed, what would be reasonable?

Professor de la Feria: Closed? I would say that this will always be an open issue.

Gillian Keegan: It is difficult—improved, maybe.

Professor de la Feria: I think you will start seeing results as quickly as one year. If practices have not changed since the law was approved in the last year, you have a problem, because the reaction should have been more or less immediate. Again, this is a point of divergence, but I honestly do not think that the problem is necessarily the law; I think it is the way that it is being enforced. Legally speaking, there are the tools—even before the new amendments were approved last year, there were the tools—via the European Court, to enforce the tax in a different way, but that was not done. It was not the policy to do so.

Q18 **Geoffrey Clifton-Brown:** Professor, you said that the UK borders were some of the worst policed borders in Europe. Either you or Richard referred to the OLAF investigation.

Professor de la Feria: I did, yes.

Geoffrey Clifton-Brown: The EU enforcement agency investigation, from memory, imposed a fine on the UK of £1.7 billion. Did you follow that case? Did the UK refute any of the evidence? If it didn't, what lessons are there to be learned from the EU's investigations?

Professor de la Feria: I have only had access to the public reports, so I do not know the exact inquiries that were done by OLAF, but OLAF is a reliable agency. I am sure it would not have made allegations if it had not had substance to do so. I think the UK has contested some of the findings. In any event, I find it worrying that the accusations were made in the first place, because I don't think they would have been made if there was not evidence to indicate that it was on sound ground to make them.

Richard Allen: Our experience has been to see huge volumes of Chinese goods in UK warehouses, and they are getting there somehow. There is obviously a problem because how are these things getting in and then being sold with no VAT? I would just like to say, because I know that we are drawing to the end here, that from the perspective of a retailer—there are lots of businesses probably watching this now—if they report one of these companies that is affecting their business, they are not getting any response that deals with it.

I have got a case at the moment: a company called Qualtex reported a specific trader to HMRC and asked for it to be closed down. So far, they have had a letter from a ministerial response team but they wrote to HMRC. All they want is someone to go in and close this trader down. It is great that everybody is looking at this but I would like everyone to bear in mind that businesses can't wait three years for a VAT-avoiding competitor to disappear. They will be gone by that point.

Q19 **Chair:** Can you tell us how quick the impact is on the business?

Richard Allen: The speed of it? It happened to me. Once we started to be seriously affected by this, we lasted two or three—two years. By that point, it was unsustainable; we just had to close. I guess it depends what sector you are in but that was my experience of it.

Q20 **Chair:** How many staff did you have to lay off?

Richard Allen: There were 10 staff and our total turnover, including assets, was over £1 million. It was impossible to compete in the end. It is slightly different because we were seeing UK products being sent out to the Channel Islands and then mailed back again. Anything in the UK eventually became VAT-free. In this instance, it is different because it is products coming in from outside of the EU. A lot of them, by the way, are also dangerous. There is another substratum to this of dangerous goods coming in, aping UK products but of inferior quality. Because this is a kind of black market, these things get through.

Q21 **Geoffrey Clifton-Brown:** Thank you for those last remarks because that brings me to my next question. These fulfilment warehouses are where you seem to think the major problem lies. What would be wrong with making it a legal obligation to have to register those warehouses, so that HMRC knew where they all were?

Professor de la Feria: I will make a small remark on that. There is already a precedent for warehouses to be made liable. There was a Belgian case a few years back where the owner of a warehouse was charged by the Belgian tax authorities with being liable to pay the output VAT that had not been paid on goods that were stored in his warehouse. He was the owner and had leased the premises, so he was not the owner of the goods, but the tax authorities decided that being the owner of the warehouse where goods that were subject to fraud was enough.

The European Court in that case deemed that that was not the case; just because the warehouse did not have the ability to know that those goods were going to be used for fraud. It would have fulfilled the test if the owner of the warehouse—as it appears in some of the cases here—could have known. He does not need to know; the standard of the test is much lower. It just needs to be that he “should have known” that the fraud was being committed and then he could have been made liable. So, there is already legislation that allows that to happen for owners of warehouses.

Q22 **Chair:** Thank you. We are nearly finished but you mentioned Brexit. What do you think the risks of Brexit are? Will they make it harder or easier for HMRC to clamp down on this sort of fraud?

Professor de la Feria: From a personal perspective, Brexit makes everything harder! From a legal perspective, a lot of this anti-fraud legislation is coming through the European courts and essentially it will have to be embedded in UK legislation post-Brexit, but I think there is a willingness to do so. I do not see the VAT system or VAT law changing that much post-Brexit, except on issues of rates.

Q23 **Chair:** You talked about the system creaking at the seams. If we do not have access to the European market—of course we are speculating, because we are still in negotiations and we do not know exactly what will happen—what do you think the implications will be for HMRC's resources? If we have more trade with other countries, how well will it be able to cope with this? What will the impact be on consumers and businesses? I am asking you for a lot of speculation here, but just give me a flavour of what your expectation is.

Professor de la Feria: This is literally just on the basis of public information, but if you are going to have your own customs border, you will need more staff. There is already an issue with staff at the borders as things stand. That issue will become bigger once there is separation from the customs union. You will need more resources—more staff, more software, etc.

Q24 **Chair:** From what you are saying, would it follow—maybe I am speculating here—that if enforcement were, effectively, outsourced to various online marketplaces, it would save HMRC a lot of resource, because it could be better policed?

Professor de la Feria: You can outsource some of it, but it won't stop you having to enforce at the borders. You can make them more liable, more co-operative—you can basically enlist them in the task of enforcing the tax—but you will still have to have people at the borders. There is no way around that.

Chair: Thank you both very much, both for coming and for the information you provided us with prior to this hearing. Thank you for your patience, because we had to delay the hearing from 3 May. Our transcripts will be up on the website, uncorrected, over the next couple of days, and obviously you will be sent a copy. Our Report will be out in due course—probably some time in October or November, given the timeframe—and we will send you a copy of that as well. Thank you very much; you are very welcome to stay for the next panel.

I call Amazon, eBay and HMRC to the table, please.

Examination of witnesses

Witnesses: Jon Thompson, Jim Harra, Steve Dishman and Joe Billante.

Q25 **Chair:** For those following on Twitter, the hashtag for today's hearing is #VAT. Let me welcome our next panel. It is effectively two panels, but we thought there would be questions you both needed to answer, so we were anxious to be efficient. We are aiming to finish in time for our vote at 4 pm, so if we can be efficient in our questioning and if you can be efficient in your answers, your ordeal—your pleasure at being here—will be short. There's a temptation for you.

Our witnesses, from my left to my right, are Joe Billante, eBay's vice-president and chief financial officer for EMEA; Steve Dishman, Amazon's vice-president for taxes for Europe; Jon Thompson, one of the



HOUSE OF COMMONS

Committee's frequent flyers—welcome back, I'm sure you've missed us—and the permanent secretary of HMRC; and Jim Harra, also a regular visitor, who is director-general for customer strategy and tax design. Your title seems to have changed every time you come, Mr Harra, which shows a certain versatility. Let us hope we can be versatile on this subject.

Before we move on to the main session and I ask Nigel Mills to kick off, I just wanted to pick up on something. When we talked about this before, Mr Thompson, you came up with a list of your key concerns about Brexit and its challenges. You have just heard from Professor de la Feria about the impact of Brexit on the customs and VAT element. Have you got any reaction to that? Have you got any update, since you last spoke to us, about the eight challenges that you face in your already busy Department?

Jon Thompson: May I say, for the 27th time, that it is nice to be with you? I have the 28th and 29th in the diary.

I think Brexit has moved on. I am slightly wary of the fact that the Chancellor gave quite a lot of evidence yesterday to the Lords Select Committee, so I think he set out the territory fairly clearly.

There are four really big things that affect us. One is customs, where the position has moved on—the Government has published a position paper on customs and what the options might be. Secondly, there is the question of indirect taxes, particularly VAT. Thirdly, there is the whole question of data sharing and how we exchange with current EU countries. Fourthly, it is worth the Committee remembering that we have a significant element of the welfare state, so there is the whole question of residency and benefits and so on.

We have made significant progress on customs, in whatever scenario is available, both in relation to the contingency of April 2019 or negotiated outcomes. We have also made some fairly significant progress on the underpinning technology in the customs declaration service; I believe you are having a separate hearing on that at the end of October. So a lot has changed, I think. We have made significant progress in a number of regards.

I heard what the professor said. I think we need to be upfront that the question of the operation of the border is primarily not one for HMRC; it is primarily one for Border Force, which then carries out functions for the Chancellor of the Exchequer. The Government have made some very clear decisions. In relation to Brexit, we need to balance three things: the security of the United Kingdom, the raising of revenue and the free flow of trade. We have built that into our positions in relation to the negotiation or a contingency. We continue to work away at that. I am very happy to get into what that might mean in terms of risk or staffing. There are scenarios in which we would need additional staff away from the border and Border Force would need more staff at the border. There are certainly options where that scenario is true.



HOUSE OF COMMONS

Q26 Chair: You say you are talking about contingencies and so on. We know it takes a while for your systems to change and for that change to come through—anything between 18 months and two years would be typical, if I am right. Looking at a March 2019 date, what discussions have you had with the Treasury and the Chancellor about the transition period that is being mooted by Government? I am not asking you to comment on policy, but how long would that practically need to be for HMRC to make some of the necessary changes that are being discussed?

Jon Thompson: We have had extensive discussions with Treasury Ministers.

Q27 Chair: Any conclusions?

Jon Thompson: Ha! I appreciate that you are trying to draw me—

Chair: There is a serious practical issue. Whatever we all think of the policy, one way or another, is neither here nor there.

Jon Thompson: Sure. If we stick to the paper that the Government have put out, there is the highly streamlined option or the so-called new customs partnership. In relation to the highly streamlined option, that is a basket of changes that we feed into the negotiation. There are seven main changes. Some of those could be implemented in April 2019, some in 2020 and some in 2021. It rather depends on exactly how the negotiations go. There is not one big change in relation to that highly streamlined—

Q28 Chair: So you are saying to us that if things go relatively smoothly and stick to timetable in the current negotiations, in 2021 HMRC could complete any changes necessary to the customs system to cope with Brexit?

Jon Thompson: Yes—could be.

Chair: We understand that there are political variables outside of your control.

Jon Thompson: One of the challenges of this conversation is that it depends when we are leaving and on what scenario.

Chair: I think we are drawing you into policy, which is perhaps a bit unfair of me. We will obviously be coming back to this and I know you are appearing before our sister Committee tomorrow; no doubt it will have questions in this area. You are off the hook for the moment, Mr Thompson, but we will be back.

Jon Thompson: Thank you.

Chair: May I ask Mr Nigel Mills to kick off with the main questions?

Q29 Nigel Mills: Mr Billante and Mr Dishman, thank you for coming today. It's a lot of money that the taxpayer is losing here. Haven't both your companies been turning a blind eye to this for a long time? Mr Billante, do you want to start?

Joe Billante: Sure. Thank you. This is my first time on this panel.

Chair: We are a friendly lot.

Joe Billante: Yes. Thank you for having me.

Look, I cannot speak to the estimate of the total potential VAT fraud that is going on. We are certainly generally aware of it. I will tell you that we take this problem very seriously. It is a legal, financial and reputational risk, but it is also just good business for the majority of our platform, most of which, by the way, is domestic UK sellers.

Specifically to this issue, we have been working on it for quite a long time with a lot of resources. I chair a cross-functional team dedicated to this problem. I arrived in Europe a couple of years ago from another role in the company and there were already teams working on this. We added even more resources to it. We have 210 people working just on VAT fraud, beyond other risk management work that we do at eBay.

To date, we think our actions have had a lot of success. Some of that is partnering with HMRC, using some of the new powers mentioned earlier. I can't speak to the total size of this problem. Certainly, we have taken action on our own site. We have blocked many sellers from our platform when we have received notifications from HMRC that they are not compliant.

Q30 **Nigel Mills:** Do you know how many?

Joe Billante: We have received 77 notices to date and we have blocked 184 individual sellers.

Q31 **Chair:** So those have all been because HMRC has notified you, not because you found out.

Joe Billante: Yes, those are the ones from HMRC. In addition, we have another 893 accounts that have been a result of our own internal efforts. We have eBay policies that go above and beyond the legal requirement. We ensure that people follow all of our policies. Specifically related to this issue, we have taken action against more sellers—1,077 in total over the past few years—and we continue to dedicate people to monitor and watch for this issue.

Chair: Mr Mills. We need to be brisk.

Q32 **Nigel Mills:** What is eBay's policy? Is it that the seller who tries to sell without VAT when they should be charging it will be blocked? Or is the policy more confused?

Joe Billante: First, we can't know who is compliant or not. That is something that HMRC has to help us with, because we don't have access to its taxpayer records. What we do is say, "You must comply with the law."

For foreign sellers, who are the primary focus of this issue, we require that they display a valid VAT number, which we check through the VIES

system. We make sure that sellers display that. We have also asked them to put that on their listing. We have been told by HMRC that that is not an actual legal requirement, and there is some debate about that. Regardless, it is our own internal policy that they display that. We have worked over the past few years.

Today, a small portion of our overall platform is made up of these foreign sellers operating, and 98% of their listings display a valid VAT number. What we can't know—and this is why we work together with HMRC—is who is actually complying and paying their tax. We are a third-party platform, so I can't know that. What I can ensure is that people follow our policy and that we take appropriate action.

Q33 Nigel Mills: Perhaps we could let Mr Dishman answer.

Steve Dishman: Thank you for the invitation here today. We also take the issue extremely seriously. It is extremely important for our marketplace that there is a level playing field. We want sellers to trust in the integrity of our marketplace and for our customers to trust it. We are a long-term focus company, so we take it extremely seriously.

We think about the issue in two areas. Area No. 1 is that we think the vast majority of sellers want to be compliant. When you are selling internationally, they may not understand the rules. There will always be a small bunch of actors who do not obey the rules. We will focus on the first group first, and then I will talk about what we are doing with the second group.

In the first group, we are working on extensive educational efforts: web pages, webinars that we are running, supply conferences around the world in multiple languages to educate people on the requirements. That is not just an issue for overseas sellers selling into the UK; it is an issue for UK sellers selling into Europe. Some 60% of our UK sellers are exporting, which has created £1.8 billion of exports out of the UK. It is very much an issue of the UK selling out as well as selling in. So that is the focus on education.

The second piece, which is key, is how to make compliance easier for those sellers. VAT is quite complex. If you are selling from Asia into the UK, how do you make it simpler? We have invested in negotiating reduced rates with some of the big accounting firms to do the compliance. Over the past two years we have also been developing a technology tool. The aim of that technology tool is really to simplify compliance; to take all of the data existing on Amazon and, with three or four clicks of the button, to be able to do the VAT returns all across the EU. We think that is a really important step that we are focused on. That will also allow all UK sellers who are exporting into Europe to use that tool. That has been a big investment. That's what we think about the majority of sellers who want to be compliant. We think education is a big piece of that issue.

On the second piece, we are working very closely with HMRC in sharing information on sellers, so that they are able to do their investigation work.



HOUSE OF COMMONS

We are now in the position where we share data on all of our non-EU seller population, which I think is the group that the Committee is most interested in. We have shared data on all those sellers to date. When we get the notices back from HMRC, we act very quickly—within 24 hours—and we take those sellers down very quickly.

Chair: Those are useful, full answers for the beginning of our session, but you could be here all afternoon, and although I am sure that you would be very happy about that, if we want to finish on time, we need to be a bit sharper.

Q34 **Nigel Mills:** I am intrigued to learn that Amazon now favours a level playing field, but perhaps that is a topic for another day. Correct me if I am wrong Mr Dishman, but for a lot of these transactions you also fulfil them. You know that the seller is based outside the EU and that the goods are in the UK because you are shipping them to the customer. It beggars belief that people can trade at all and ever be allowed to sign up in that situation without being VAT compliant. Are you not just saying lots of nice words about videos and discounted tax advice, but in reality couldn't you just stop this happening at all?

Steve Dishman: You talk about the non-EU seller population who are using our Fulfilment by Amazon service, which is where we offer the fulfilment service. About half of our sellers—half of the non-EU portion—use that service. One of the difficulties that we face, as well as all the other marketplaces, is understanding that even if a company is VAT-registered, when it comes ultimately to paying over the VAT and then paying it over to HMRC, the only people who know for sure whether that happens typically, and whether the company is putting it on their VAT return, are HMRC. That is why we are doing the extensive data-sharing with HMRC, so that they can know. We think it is working. We have had more than 400 notices from HMRC to take down sellers, so we think that the process is working well in terms of that data exchange.

Q35 **Nigel Mills:** Do you not think that, in reality, the solution to this would be for you to collect the VAT before you pay the sale money back to the non-EU seller, and pay that over to HMRC?

Steve Dishman: Certainly that is a good point in terms of the real long-term solution. There are different solutions out there, and Professor de la Feria mentioned one of them. There is a consultation out from the UK Government now about the split payments legislation, which is an interesting idea. The concept of split payments is that an amount of VAT would be deducted by the financial intermediary, which could be a bank, financial institution or the marketplace and to deduct that VAT when they receive the remittance in. That could be an attractive methodology as long as it covers all marketplaces; we have Amazon and eBay here today, but one of the keys is that it should cover all marketplaces.

Q36 **Chair:** You are saying—I ask the same question to you, Mr Billante—that you would not have a problem introducing that system of taking the payment at source.



HOUSE OF COMMONS

Joe Billante: We are a little bit different as a business, but I think that it is certainly worth exploring the right way to tackle this problem. That may be a good solution, but I think that the challenge will be—

Q37 **Chair:** But PayPal is one of your companies.

Joe Billante: No, actually; we are separate businesses. We separated the companies in 2015—

Chair: Forgive me.

Joe Billante: They are a completely independent operation now.

Q38 **Chair:** Okay. Mr Dishman, you could technically do it.

Steve Dishman: We could do it and we support the idea in principle. The key is to ensure that it covers—

Q39 **Chair:** Are you saying that you wouldn't do it because you wouldn't want to go it alone?

Steve Dishman: No, we would do, but in this kind of business where companies can move between marketplaces very easily, it is key—

Q40 **Chair:** That is what I am saying. If you could do it, you wouldn't go it alone, you would want to do it—

Steve Dishman: We would be supportive of legislation as long as it is applicable in total, and that is important not just for Amazon, but for the public Exchequer.

Q41 **Chair:** Before we go back to our witnesses from the marketplace, may I ask Mr Thompson, or perhaps Mr Harra, is the data that these marketplace platforms providing to you proving useful?

Jon Thompson: Yes.

Q42 **Chair:** Okay. As a result of that, what is the number of people you are now catching through this process? Has that gone up since you changed the rules last year?

Jon Thompson: There are three parties to this: a seller, a fulfilment house and a consumer. What we have been trying to look for is a systemic solution that requires all three parties to comply so that we, in the end, collect the tax.

In relation to the seller, it is either register or get a joint and several liability notice. The number of overseas online retailers registered for VAT has risen from 700 at the end of 2015 to 17,537 at the end of last month, so a significant rise in the number of online retailers who are now registering and accounting for VAT and paying the tax. If they don't want to comply with that—bearing in mind that there has been a 16,800 rise—we will issue a joint and several liability notice. We have issued 399 of those and all those sellers have been removed from the market. Does that cover the entire population? Possibly not, but we think that we have made significant progress on the seller. There is more to do.



HOUSE OF COMMONS

On the fulfilment house, you will be aware that we have announced a fulfilment house due diligence scheme starting from April 2018. They have to register and go through a proper person test, and at that point the fulfilment house has to check that the goods that are entering it are registered with someone from overseas who is VAT registered. We then have a double check on what is entering the fulfilment house.

Ultimately, there is the question of whether we could have a split payment on the consumer when they pay the merchant acquirer. Under current EU legislation, that is not possible. Nevertheless, we had a call for evidence to see what business would say. We closed that in June. We can't find another example anywhere in the world of a split payment arrangement, so we are trying to push forward with that. It is now for Ministers to decide whether they want to.

If you think about it in three parts—the seller, the fulfilment house and the consumer—we have tried to tackle all three elements of the system. I think that the data are very strong. The good professor asked, "A year in, has it made any difference?" It seems to me that if you have gone from 700 to 17,500 people registering, there is a strong case for saying that it is making a systemic difference. The estimate of the additional revenue is more than £350 million a year.

Q43 Nigel Mills: How many of those 17,500 VAT registrations are you collecting VAT from? Are they all paying you money or just registering?

Jon Thompson: As far as I am aware, but if you want me to give you a very detailed answer about how much we are collecting and so on and so forth, I will happily go back and find it.

Q44 Chair: That would be helpful. The registrations have gone up, but Mr Mills is right to highlight that point.

Jim Harra: We expect that in this calendar year, 2017, we will collect £50 million more VAT from those traders as a result of the additions to the registration.

Q45 Nigel Mills: But we are losing £1.5 billion, Mr Harra. I mean, £50 million is nice, but—

Jim Harra: Yes, it is only part of it. We have a number of approaches. First, we get revenues from the assessments that we make on the businesses that we compulsorily register, many being the ones on which we have served joint and several liability notices. We get revenues from those that have been prompted to step forward and register voluntarily. We also get revenues from our National Imports Taskforce, which uses customs legislation to enforce import VAT at the border, and also seizes goods from the fulfilment houses, several of which have been closed down as a result of that intervention. The approach is multifaceted, but we do not yet have all the powers that we need to tackle the problem. The Bill before the House of Commons at the moment includes the fulfilment house due diligence scheme. The Government have also now called for

evidence on a split payment system. There is no doubt that we will need more powers to reduce the gap to a normal level of gap, if you like.

Q46 Nigel Mills: So what is a normal level of gap? Come on, let's target this.

Jim Harra: We are constantly pushing the tax gap down, but if you look at the VAT gap overall, it was at its lowest, at 9.6%, when we last declared it for 2015-16. Do I want to get it lower? Yes, I do, but that is below the EU average. It is about the same as Germany, for example.

Q47 Chair: What is your target? If you want to get lower, what is the target?

Jim Harra: We just constantly want to get that down, but the level of gap in the area of non-EU sellers selling on online platforms is significantly higher than that, hence all the problems it causes UK businesses. Contrary to the impression that previous witnesses wanted to give you, we take that very seriously and we have been acting urgently to tackle it. There is only so much we can do with the powers we have got, and we are asking for more powers.

On the split payment, as Jon says—

Chair: Can we come to the split payment later? I want Caroline Flint to come in on a couple of these points.

Q48 Caroline Flint: Good afternoon, gentlemen. Mr Dishman, how many non-EU retailers are on Amazon UK?

Steve Dishman: Let me give you a sense of our overall business.

Caroline Flint: No, just give me a number.

Chair: A ballpark number.

Steve Dishman: We have 280,000 sellers on Amazon UK. The majority of those are UK—

Q49 Caroline Flint: So how many are not UK?

Steve Dishman: For the non-EU percentage, 16%.

Caroline Flint: 16% of 280,000?

Steve Dishman: 16% of the sellers on Amazon UK are non-EU, yes.

Q50 Caroline Flint: So that is around 50,000?

Steve Dishman: Yes, it is about 46,000.

Q51 Caroline Flint: Okay. How many non-EU sellers with stock held at Amazon's UK warehouses show no VAT number or fraudulent numbers?

Steve Dishman: Of the 46,000, approximately half use Fulfilment by Amazon, so they have their stock in our warehouses. So that is 23,000. In terms of VAT registration numbers, our policy until the last six or nine months has not been actively to collect those VAT numbers, as the VAT number itself does not guarantee in any way that a company is compliant. If the company wants to be fraudulent it would not ultimately pay the VAT.



HOUSE OF COMMONS

Q52 Caroline Flint: I was listening to the answers given by you and Mr Billante about VAT numbers and I got the impression that there was not that much of a problem there; that actually there were VAT numbers on the listings. But you seem to be saying, Mr Dishman, that just because they have a VAT number does not mean they are complying. My question is this: how many of the 23,000 non-EU sellers with stock held at your warehouses are showing no VAT number?

Steve Dishman: Again, that is not a data point that we necessarily think is that critical. Since going out—

Q53 Caroline Flint: Can I just hold you there? If they are not showing a VAT number, would that set off some alarm bells? I understand with both your organisations that, when it comes to taking on sellers in your marketplace, quite rightly there are hugely extensive checks on the goods being handled to make sure that they are safe and also that there is redress for buyers. I find it quite hard to understand why, as part of your systems, algorithms and everything else, at least having the VAT number is not an immediate part and parcel of your work with these sellers, to check against the listings whether it is valid.

Steve Dishman: That is a good point. As you have said, we have focused on the education and compliance piece, the sharing of data with HMRC—

Caroline Flint: It is not about education; it is about why that is not instrumental in the registering.

Steve Dishman: I understand. We are now going out and collecting all of those VAT numbers, as a kind of fourth pillar to the other activities that we are doing. We have VAT numbers for about 67% of the revenue of our non-EU FBA population. I reinforce that we are now going out and collecting those VAT numbers. We have been going to the largest sellers first and we are working through that list. That does not imply that the 33% are non-compliant.

Q54 Caroline Flint: I think you just said that 67% of non-EU retailers have VAT numbers, or that you are going to have them?

Steve Dishman: We have VAT numbers on file for 67% of the revenue for that population. We have shared all the data on our non-EU population.

Q55 Chair: We can see that you have that figure in your head, but do you know or can you let us know the total number of individual non-EU sellers with VAT numbers? There might be a few that are very big and account for quite a chunk of that 67%, and a lot of smaller businesses.

Steve Dishman: We focused the statistic on revenue and the number of VAT numbers we have. I am happy to come back to the Committee with that data.

Q56 Caroline Flint: Thank you very much. The Amazon seller agreement states that it “reserves the right to charge you any applicable unbilled VAT if you provide a VAT registration number” or evidence of being in business “that is determined to be invalid”. How much revenue has



HOUSE OF COMMONS

Amazon recovered from VAT-evading sellers using this method?

Steve Dishman: Sorry, I am not sure I follow the question.

Caroline Flint: I understand that the seller agreement, one of the agreements you set up with anyone who wants to register with you as a seller, states that it “reserves the right to charge you any applicable unbilled VAT if you provide a VAT registration number” or evidence of being in business “that is determined to be invalid”. So my question is this: how much revenue has Amazon recovered—or recovered through HMRC, which we might come back to—from VAT-evading sellers?

Steve Dishman: I think that might be a slightly different question. When we invoice our sellers, the VAT treatment will be dependent on whether they have a VAT number. If, for example, they have a UK VAT number, we do not have to charge them VAT; they have to self-account for that.

Caroline Flint: I totally understand that.

Steve Dishman: I think that is what the seller agreement is referring to.

Q57 **Caroline Flint:** Okay, but does that not apply to the non-EU sellers as well?

Steve Dishman: The way the law works at the moment—the professor talked about it earlier—is that if you are invoicing a non-EU seller, if they are registered or based in Asia or they are based in the US, VAT is not due on that sale. The professor was talking about whether that law should be changed, but that is the law and obviously we have to meet the law on that basis. That is the current rule if you are providing services to a non-EU establishment.

Q58 **Caroline Flint:** What steps does Amazon take to ensure that a removed seller does not simply remove stock, send stock back into Amazon under a different account and continue selling as if nothing has happened?

Steve Dishman: We get the notices from HMRC and we take them down immediately—within 24 hours. We will have processes to stop them re-registering. Again, it is very much in our commercial interest to do that.

Q59 **Caroline Flint:** In the last year, how many people have you applied that to?

Steve Dishman: I don’t have those data, but as a general part of our sign-up of any new seller we will have various fraud techniques. We will look, for example, at whether it is the same IP address, whether it is the same address and whether there is any fraudulent activity there, and we would block them from re-registering. We have those processes.

Q60 **Caroline Flint:** How confident are you in those processes?

Steve Dishman: Well, it is in our commercial interest that they work well. We do that not just on VAT but on all areas of non-compliance. If there are any loopholes and so on, we are always keen to make sure that those



HOUSE OF COMMONS

are removed, but I think we feel confident, and if we see any areas for improvement we will address those.

- Q61 **Caroline Flint:** Could you provide the Committee with some data on how many times you have used that process, say in the last financial year, and any other information, perhaps about how many attempts there are by sellers to reinvent themselves to come back on to the system?

Steve Dishman: It is a process that we follow with all sellers when we take them down or anybody new who is registering. I am very happy to take the Committee through that separately.

- Q62 **Caroline Flint:** Okay. Could I ask Mr Billante a couple of questions? In your opening answers you seemed quite confident about how many of your sellers had a VAT number listed on their sites, but I understand that there are something like 20 different Chinese seller accounts using the same VAT number. Are you aware of that?

Joe Billante: Yes. The reality is that people use the platform in different ways. These are not 20 different sellers; there are just reasons of pragmatism in terms of how they organise their business. It may look like they have 20 accounts because they put certain categories of certain goods into different accounts. When we look at enforcement actions against our own policies or against notices, we take into account all the seller's activity, no matter how many different individual parts they have on our platform, and we take action across all of those consistently.

- Q63 **Caroline Flint:** But how do you ensure that people are not just basically fraudulently copying someone's VAT number and adding it to their presence on your marketplace?

Joe Billante: We validate that everybody has provided a valid VAT number, and then we ensure that they display that on their listings. We do look at the information on the VIES system—

- Q64 **Caroline Flint:** How do you do that?

Joe Billante: We check the information on the VIES system relative to what they supply and then we ensure that across all their listings, because all our sellers have asked for transparency. We have worked really hard over the last few years to make sure that everybody puts it on their listings. Even though sellers outside the EU legally are not required to, we felt like it was a good thing to do and we made it an eBay policy to require that. That is why we have seen a significant increase in the number of sellers including that in their listings.

We are working through the remaining 2%, and I want to get to 100%. In some cases, people may actually have a valid VAT ID, and this is not legally required by them but we are working with them to make sure it is. There is a small tail of remaining sellers left. We covered the largest accounts first, and I am pleased, but we can never let off with the vigilance around this issue, because people continue to try to come back.

- Q65 **Caroline Flint:** Am I correct, Mr Dishman, that when it comes to Amazon,



HOUSE OF COMMONS

if a company wants to register with you, even if they have other parts to their business you just have one account with that one firm?

Steve Dishman: We typically have the one account by legal name, yes.

- Q66 **Caroline Flint:** But on eBay, Mr Billante, I understand that is different—you can have companies where it is basically the same company but they spread themselves around. Does that not make it harder to check up on them and verify them in terms of their VAT credentials and what have you and for HMRC to follow up to ensure that they are paying?

Joe Billante: We have lots of other information that links these together. Actually, because we receive notifications from HMRC about one particular account, we are able to link that together with the rest of the related accounts. That is one of the reasons why—I mentioned the numbers before—we have blocked over 1,000 accounts. Some of those are because of our work, linking together different pieces that HMRC has helped us understand: these are non-compliant sellers. We ensure that we find all of their activity.

Again, I think it is a function of the eBay platform and how it was built 20 years ago. Even large sellers in the UK have many accounts. If you look at some of the largest local domestic businesses, they operate many different accounts on eBay. It is simply a pragmatic way to operate on a platform. It is not because they are actually individual sellers with individual accounts—

- Q67 **Caroline Flint:** Yes. I suppose the thing is that those companies in the UK are much easier to track down, whereas we are talking about these overseas sellers: non-EU, and Chinese in particular. What might be a compliance measure or acceptable for an onshore business or within the EU may be different. Is that a fair comment?

Joe Billante: It would not make a difference in terms of our ability to link the accounts together. If the same seller wants to operate five accounts because it operates in five different categories, we are able to see that information internally as the seller signs up. We are able to link that together in our systems.

- Q68 **Caroline Flint:** Would you agree that all overseas sellers with stock location in the UK and no VAT number listed should be deemed non-compliant and could be removed by eBay immediately?

Joe Billante: Today, the law is that they are not required to display the VAT. We have a policy where they must do that, which we are working through with everyone. So for the remaining 2% that are not displaying today, we are in contact with them and trying to remediate that. If they won't comply, we will remove them from our platform.

Nigel Mills: That sounds great, doesn't it?

Caroline Flint: It sounds like there's no problem.

- Q69 **Nigel Mills:** I assume that if I went on to Amazon or eBay now, I would



HOUSE OF COMMONS

not be able to buy anything without paying the VAT that I should be paying.

Joe Billante: I certainly understand the general concern about the issue. I take this very seriously. This is not something where we could spend a lot of time and effort with a lot of resources. It is why I champion the issue and it is why we have a lot of people dedicated to it. It is not something to—

Q70 **Chair:** We are not doubting you have some resource dedicated, but, if I were to report to you now a business that is not complying, you said, Mr Dishman, that you take them down in 24 hours, but is that on my report or once you have got verification? How long can they keep trading at maximum before you take them off the platform?

Joe Billante: First of all, we cannot know whether or not they are actually compliant. Whenever someone reports to us that they have a concern about another seller, we immediately tell them, "Please refer that to HMRC" and in many cases we also make sure that HMRC receive that. We also conduct our own investigation on whether they are compliant with eBay policies. Again, I cannot validate whether or not someone is actually paying. I can only ensure that people follow the rules that we have laid out and follow the laws that we can enforce. I cannot know whether or not someone is actually paying the VAT.

Q71 **Chair:** You could check if, for instance, they had a false VAT number.

Joe Billante: Yes, and we do. We check on the VIES system.

Q72 **Chair:** How quickly would you be able to close someone down if you found out that was the case? If I complained to you now about a company—

Joe Billante: If someone came on to the site today with an invalid VAT number, they would be removed today.

Q73 **Chair:** Today?

Joe Billante: Yes.

Chair: I think Gillian Keegan may be able to help you on this subject.

Q74 **Gillian Keegan:** It sounds very encouraging. You have introduced new measures and you are working together to try to shut down this fraud. However, it is actually very easy today to go on to either one of your platforms and buy something. This example is an Amazon Prime purchase: lightbulb socket converters, £5.99, ordered on 6 September from Shenzhen Kaida Trading Ltd—you can tell us if they are still a valid trader later. We requested a VAT invoice—which I guess you could do—and we got a reply from Minger EU with a commercial invoice but no VAT number. Again, we have asked for a VAT number, and this has been outstanding for a week—we have still had no response to date.

Richard had another example earlier on—

Chair: Richard Allen from RAVAS.



HOUSE OF COMMONS

Gillian Keegan: Yes, Richard Allen from RAVAS. It is very easy for anybody to go on today and find these sellers. You are very sophisticated technology companies and I would think it would be very easy for you to put in better practices to stamp down and clamp down on this fraud, and get rid of it. What are you doing? With this technology tool that you are going to introduce, will you be able to stop this fraud happening? What can you do better to design systems to stop it happening?

Steve Dishman: One of the underlying issues here is that we have information, but we don't have the complete information about whether the seller is ultimately paying that over to HMRC.

Q75 **Gillian Keegan:** But you can make an assumption on some parameters, which you would do in your own systems, if it was your own revenue.

Steve Dishman: We ultimately don't know what they have filed on their return. We don't have visibility on that; we have 280,000 sellers. If we want a broad solution, I think it has to be a legislative solution that looks at that. I think what we are doing with HMRC is working well. We have shared all of the data, and it is clear that it is acting on that data, but I think that we need to look at a legislative solution.

Q76 **Gillian Keegan:** Yet we heard from the professor earlier that she actually believes the legislation is in place, but that the enforcement and the practices could be improved.

Steve Dishman: I think the professor talked about one piece of Belgian case law, which, to be honest, I am not familiar with. I think the legislation needs to evolve here. I think it is critical that it covers everybody. We have Amazon and eBay here; we are both doing a lot of things. I think it is very important that everybody is in the same boat, from a policy perspective, because otherwise there will be bad actors and marketplaces that are less diligent.

Q77 **Gillian Keegan:** I don't think you can be less diligent than this. Mr Billante, could this get through your system?

Joe Billante: Going forward, no. We require that new sellers, as they come on to the platform, provide a valid VAT. If you didn't see a VAT on a listing, you weren't unable to find it; that is not going to happen. Like I said, we have done a lot of work over the last few years to address the existing population and, going forward, we require that. A new seller, based on our policies, would be in violation, and we would enforce against them.

Gillian Keegan: So perhaps, Mr Dishman, you could take some lessons from your neighbour?

Q78 **Geoffrey Clifton-Brown:** Mr Thompson, you estimated the tax gap of online sales in 2015-16 at between £1 billion and £1.5 billion, but you chose to take the lower £1 billion figure. Why was that?

Jon Thompson: We chose to use it for what purpose?

Geoffrey Clifton-Brown: Well, you chose that as the preferred number



HOUSE OF COMMONS

that you thought the actual tax loss was.

Jim Harra: No, that is not correct. We've estimated that it is between £1 billion and £1.5 billion. We have not said that we prefer the lower estimate. It is somewhere in that range, and the Office for Budget Responsibility has certified that that is a reasonable range estimate.

Q79 Geoffrey Clifton-Brown: Okay. The problem of this tax loss was first identified by this Committee in 2011. You estimated that loss in 2015-16, since when you have taken various measures—notably, joint and several liability. The number of online sales has gone up hugely, so where do you estimate the losses today? Have the measures you have taken been effective, or has the rise in online sales meant that the total loss has actually risen from that £1.5 billion figure?

Jim Harra: I think, over a number of years, we and the Committee have been aware of the risks that online selling poses to revenue collection and to businesses. I do not think it was until 2014 that the focus really came down on non-EU sellers on the platforms. Clearly, there has been exponential growth in online retail. In 2015, the Office for National Statistics estimated that it was about £43 billion, and it was £51 billion the following year, so it is growing all the time.

Q80 Chair: We have some of those figures from the NAO's Report.

Jim Harra: That is total online sales. We acted before. While things were being looked at, at the OECD and EU level, the UK Government decided that they could not wait for that, and they acted quicker, in 2016, with the joint and several liability measures. They are clearly having an impact, both in producing data for us to find on compliant traders, but also in prompting them to come forward and register for VAT.

We have proposed a further measure to come in next year, subject to Parliament passing the legislation. We have also consulted on split payment, either with a view to introducing that post-Brexit, or with a view to seeking a derogation from the EU, depending on the negotiations, because we cannot currently implement that measure under EU law as it stands.

I think there has been a sense of urgency in doing this, and we have backed that up by deploying resources, and we have been given additional funding for resources to police this. We estimate that with the 2016 measures we will reduce this gap by about a third to a quarter, but we need further powers in order to reduce it further.

Q81 Geoffrey Clifton-Brown: So, a third to a quarter. You are talking about reducing it by half a billion pounds—over what period?

Jim Harra: We have estimated it to be a £875 million total yield from the 2016 measures by 2020-21. The steady state effect of those measures annually is about £350 million. The split payment measure, if it comes on board, will of course be in addition to that.

Q82 Chair: Have you an estimate what the split payment—presumably it



HOUSE OF COMMONS

would fill the gap?

Jim Harra: Not at this stage, because we've done the call for evidence. That closed in June. In fact, we've extended it a bit, because the election—

Chair: But it is not whether it comes in—that's what the call for evidence was. But surely, if you introduce the split payment, and those systems were introduced by organisations like eBay and Amazon, the VAT would just come in, so that gap would be closed.

Jim Harra: We believe that would have a very significant effect, but we have to gather the evidence about how practical it is, where the payment engines are and how the UK can enforce that. But yes, we would expect that to be a game changer.

Q83 **Geoffrey Clifton-Brown:** You heard the previous witnesses talk about the problem with the warehouses, the fulfilment houses. You asked the Treasury to give you another measure—the fulfilment house due diligence, which comes into effect next year. Have you calculated that in those figures of the reduction of the amount of loss? In your 2021 figures, you say down to £870 million—does that include the benefit you expect to get from that measure?

Jim Harra: Yes, that is from all the measures announced in 2016, including the fulfilment house measure.

Q84 **Chair:** Okay. I have just one thing I wanted to raise. We were talking about items bought. This here is another item we bought on the system. These are cable ties, costing £12.32. They were ordered on 6 September. I will not name the company, because I think it might have disappeared by the end of the hearing, if they know that I have mentioned this to the permanent secretary of HMRC.

We had Amazon Prime delivery, Mr Dishman, so it came quickly—thank you for the delivery. We requested a VAT invoice. The reply came saying that they could only provide a commercial invoice. We asked again for a VAT invoice and said that they would be reported if I didn't get it. Actually, I didn't use my name in this case—they will not be aware it was me.

The response was interesting. They said it was difficult to get the VAT invoice, so offered me a 20% refund as compensation. I have to reassure the tax authorities that I didn't take the kick back of 20% of £12.32. But, Mr Dishman and Mr Billante, this is the sort of thing that is happening all the time. We found that out by just doing a little bit of a mystery shopping exercise. It is very easy to find out. Do you do mystery shopping exercises? With this information, what could you do, Mr Dishman, with this company? I shall provide you with information about it outside this meeting.

Steve Dishman: Certainly if we have received information like that—that they had offered a 20% discount—we would then take them through our seller take-down process. We would first of all validate the evidence, if you provided the evidence to say that this is what was in an email. We would



HOUSE OF COMMONS

then take them through the take-down process and we'd give them a chance—30 days—to rebut the evidence, but then we'd take them down.

Q85 **Chair:** What is there really to rebut? That they offered me 20%?

Steve Dishman: No. We just check the evidence, and of course as long as it's valid, we would take them down.

Q86 **Chair:** Okay. What happens if they shut down and then re-open as another company?

Steve Dishman: In terms of setting up as another company, as I explained earlier, we would have processes to stop them doing that—looking at their IP address, their legal address, etc.—to stop them just re-emerging in another form. That would be the process we would have in a situation like that.

Q87 **Chair:** Mr Thompson, or Mr Harra, what could you do with this information, and how quickly can you act?

Jon Thompson: We will happily take information from any party. We have a fraud hotline: 0800 788 887. We had 113,000 calls last year. We will take information from anyone and we will act. You have had three examples now, I think. We will happily take whatever evidence you want and we will act on it.

Q88 **Chair:** Well, we will certainly provide you with the evidence, but how quickly can you get that seller out of the marketplace, so that British businesses aren't losing out to someone who is selling me cheap cable ties from—it won't name where it's coming from—wherever?

Jon Thompson: I honestly couldn't answer that question about how quickly we could do it. I know that we do issue joint and several liability fairly quickly, but I couldn't honestly answer your question.

Chair: We might ask you to take this one up and then feed back to us what happened.

Jon Thompson: Totally happy to.

Q89 **Chair:** If I were to provide that information—in the meantime, there are companies that, you would acknowledge, are losing out.

Jon Thompson: Yes, I would acknowledge that. As I said in answer to previous questions, there are three elements. We were trying to get to a systemic solution on the seller, the fulfilment house and the consumer. I did not agree with the professor when she said, "There is all the legislation you could ever want; you just need to act on it." It is fairly clear to me that we need two further pieces of legislation: one in relation to the fulfilment house—

Q90 **Chair:** And the split payment system.

Jon Thompson: And the split payment system.



HOUSE OF COMMONS

Chair: I will bring in Layla Moran and Bim Afolami in a moment, but Caroline Flint wants to follow up on that point.

- Q91 **Caroline Flint:** Just quickly on a complaint from traders about one reason why HMRC has not been not on top of this: they have consistently, for some years now—going back to 2009—been reporting information, but they never hear anything back about what is being done. What if someone like my colleague, Meg Hillier, reported this to you? Does the person who reported it get informed about what happens?

Jim Harra: First of all, we always act on any intelligence that we receive. We look into it and compare it with data that we hold internally and with other external data to determine whether there is a real risk that we need to investigate.

- Q92 **Caroline Flint:** Do you let the person who has informed you know what has happened?

Jim Harra: We are constrained by confidentiality rules which mean that generally, although we can assure an informant that we always take action on the information, we cannot tell them the outcome of the investigation.

- Q93 **Caroline Flint:** Okay, so in a situation like this, where you might have a lot of people coming in, within the organisation is that all captured? One of the concerns is that reports have been coming in and you may be investigating them, but the reason why you have been so slow is that you have not pooled them all together to see a more systemic problem that is happening in this market.

Jim Harra: No, all intelligence is controlled under HUMINT policies. In this area at the end of July we know that we had 1,187 pieces of intelligence from organisations like RAVAS and vatfraud.org. What I would say—Mr Dishman has mentioned that—is that those are cases that they believe are non-compliant.

When we have looked into those, fewer than three in five have in fact been potentially non-compliant and have required investigation. We use our own risk assessment as well. In fact, we have identified about four times more cases through that route than through the intelligence, but nevertheless the intelligence is a welcome addition to our own risk assessment work. We welcome it and we do follow up every case.

- Q94 **Chair:** You have heard from Mr Clifton-Brown and Ms Flint and others that this goes back to at least 2009. Mr Thompson, your predecessor sat in front of this Committee in February 2016 and talked about these being the new kids on the block and said that you were on it. That was seven years after the problem first arose. I am sure you can understand the frustration and the suspension of belief that it is being treated as urgent if there is no feedback on this.

Frankly, if the company that I mentioned—I shall give you the details of it—is found to be acting fraudulently, why can't you name and shame them? What is taxpayer confidentiality when someone is committing fraud? If you take them to court—prosecution is another matter—you



HOUSE OF COMMONS

would name and shame them.

Jim Harra: We do have powers to name deliberate defaulters in certain circumstances. Every six months we publish a list of them. There are quite tight criteria set by Parliament about who can and cannot be named under those powers, but the general rule is that because of taxpayer confidentiality, we are unable to disclose—

- Q95 **Chair:** We understand taxpayer confidentiality. We have grappled with this before and we understand that there is an issue there. What change would there need to be in the law so that someone who is caught defrauding the tax authorities—of defrauding HMRC of VAT or any other tax—could be named more quickly? What change in the law would we need to pass in this House?

Jim Harra: As I say, there is already law for deliberate defaulters in certain circumstances. You could review the criteria that apply. From our point of view, we are interested in tools that enable us to ensure compliance. Whether naming, for example, a Chinese retailer would have any effect on compliance, I am not clear. Those are the kinds of areas that you would look at, but what we certainly do with informants is assure them that we capture the intelligence. It is controlled centrally. Every case is risk-assessed and looked at, and if it requires investigation, we do investigate. We have done so with the cases that have been given to us in relation to this, where our own data have shown that they are indeed non-compliant, but with some cases that might appear to someone looking at eBay or Amazon to be non-compliant, when we investigate that is not in fact the case.

Chair: If we've got a minute at the end, we will come back to that, but I need to bring in Layla Moran and then Mr Afolami.

- Q96 **Layla Moran:** I am interested in timescales for specific action. You have all taken pains to say what you do; I am interested in the interaction between the companies and HMRC and getting the information back. First, both Mr Billante and Mr Dishman, you said that you share VAT numbers with HMRC. How often do you do that and how quickly does it come back with numbers that are acting fraudulently?

Steve Dishman: I will take this one first, if you like. We share the data regularly. We have agreed a monthly cadence on the data. HMRC says, "We want this number of sellers", and we provide that seller data on a monthly basis in a format that it has agreed would be helpful for its investigations. It will do its investigations based on those data and other data it may have—obviously it has information we do not—then it comes back to us and issues us with a notice. We will then take the seller business down within 24 hours of receiving that. That is broadly the process.

- Q97 **Layla Moran:** Can you take me through that middle section of time? You send them the VAT numbers once a month. On average, how long does it take for those to come back with the people you need to take down within 24 hours? How quickly is HMRC responding?



HOUSE OF COMMONS

Steve Dishman: I am not sure I have those data at the moment. I am happy to go away and look at that, but I certainly have not brought that with me.

Jon Thompson: I hate to do this with other witnesses sitting to my right, but I think that there is a risk that the Committee could fall into assuming that there is some transparency between the two organisations. I have to be up front with you and say that there is not necessarily transparency between the two organisations, because there are questions about where exactly the data are being held in relation to the marketplaces. We have had good co-operation, but some of the data that are held are not within UK jurisdiction. We co-operate, but we need to be clear that there is not complete transparency between our organisations in the way that you are implying. It is true to say that online marketplaces can access our systems to validate VAT numbers, but I do not think you should fall into assuming that we therefore have complete transparency back the other way.

Q98 **Chair:** Have you got the powers? There are obviously issues with data protection and we know there are issues with the US and data sharing. Where is the limit of HRMC's powers? If you feel there is an issue you need to ask for information about, whether from the witnesses or any of the platforms, where are the barriers?

Jim Harra: We do have legislative powers in relation to specific data on specific cases and on bulk data that we want for risk-assessment purposes. We expect co-operation and those data to be given to us voluntarily. If it is not given to us voluntarily, we will exercise our statutory powers and issue notices. People have a right of appeal against that notice and ultimately that could end up in tribunal if they feel that they are not covered by UK legislation, but we certainly meet arguments that the data we want access to are not controlled from the UK and therefore our UK legislation does not apply. We would not agree with those arguments and we would pursue the case, but nevertheless we do encounter them.

Chair: It takes longer and it is harder.

Jim Harra: It means potentially we have to go to tribunal.

Q99 **Chair:** Can you liaise with a tax authority—

Jim Harra: Yes, the other thing is that if the data are in a jurisdiction where we have got a treaty where we can exchange information, we can go to the other tax authority and ask them to obtain and pass the data to us. Again, that takes time. We want to see the kind of routine flow of data that Mr Dishman has mentioned. To date, it has been a transfer of a standing database. From now on, it will be updates to that as new sellers come on to the marketplaces for us to check.

Q100 **Layla Moran:** Can I ask Mr Billante to answer the same question, please? How often—

Joe Billante: I would echo a lot of what my fellow panellists have said. The limit on going even faster with this has been the data and the ability



HOUSE OF COMMONS

to share freely all data on all topics. When there are specific data, we are very easily able to share information back and forth on specific issues. We have a law enforcement portal. HMRC has called that the gold standard. The process works really well exchanging back and forth. When it comes to bulk data, there is a challenge. When there are cases of JSL notices, we receive the notices and within a day we know immediately all the activity not only in relation to that specific account, but any other related activities across our platform. We work with the seller to understand whether they have any intention of becoming compliant, and before the 30 days—typically on day 20, but we look potentially to do that earlier, too—we take action and block them from the platform. We have a very good working process regarding the JSLs. We are partnering to try to navigate the various data privacy laws and challenges for other jurisdictions, which, candidly, slow this down, but we very much want to share all the information, because we see that in the limiting factor in going even faster.

Bim Afolami: I must be the only Member of this Committee without a prop—*[Interruption.]* I have one now. Mr Thompson, earlier you mentioned the pieces of legislation, or legislative action, that you think would give you the powers you would need to go further. I have two quick questions. First, could you reiterate exactly what you believe those to be? Secondly, what are your views on the fulfilment house due diligence scheme announced by the Government?

Jon Thompson: The fulfilment house due diligence scheme is in the Finance Bill, so assuming that goes through we would implement it in April 2018. There is an underpinning technology project that would come on stream in April 2018. Jim and I went through that the other day, and we are in a strong place to implement it, subject to the House. That would be one further step forward and it addresses the middle party in this, as you said.

The ultimate step would be on the split payment. The process here is that we cannot implement a split payment under current EU law. We have had some evidence, and we will put that evidence together to put to Ministers. As the professor said, the current presidency of the EU—Estonia—has been pushing forward in that regard, and we have supported that. It been looking at whether it can implement that in 2021. We think that we could implement it sooner than that, if Ministers decide to bring it forward to the House to give us additional powers.

Q101 **Bim Afolami:** So you are in the process of bringing this forward to Ministers in the Treasury?

Jon Thompson: Yes, to Ministers in the Treasury, and then it is for them to decide whether they bring it forward to the House. So on that basis, you would have legislation on the seller, the fulfilment house and, in relation to the split payment, the consumer.

Q102 **Bim Afolami:** And that is what you think you need?

Jon Thompson: I think that at that point it would take us a significant way forward, yes. I don't know whether Jim thinks there is anything else.

Jim Harra: I do. I would say that a working party of the EU Council is looking at another option: placing the liability to account for VAT simply on the platforms, without the need for us to issue notices to them. That is something that we are engaging with the working party on.

Q103 **Bim Afolami:** What is your view on that?

Jim Harra: I think that it is a potential measure that could help in this specific area. I think that the key advantage that the split payment option has over that is that it can have a much wider application than just for this specific problem, in relation to marketplaces. Those have frankly grown very quickly, and I don't know whether in the next 10 years they will disappear very quickly and some other problem will come along. We see split payment as a much more strategic solution, but I am not saying that there could not be value in the other one.

Q104 **Bim Afolami:** Thank you very much. On your last comment, about the fact that something else may turn up and be the new thing, could you walk us through how it works internally, within your senior and mid-level management in the organisation, on identifying potential new areas of fraud?

Jim Harra: First, we have a futures team, which looks at future developments that will impact on the administration of tax and brings that into the policy making process and the operational planning process to make sure that we take account of it. Also, there is a limitation of our tax gap measure: it tells us that we have a tax gap, but it does not necessarily tell us what is driving it. We have something called a strategic picture of risk and a risk intelligence directorate that populates that and says, "You know you've got a tax gap. These are the key strategic risks that we see driving that tax gap." In 2014, they identified that non-EU sellers on online platforms were driving an increasing part of the VAT gap, and that is what prompted us to come up with the 2016 measures. We do frequent threat assessments of those kinds of new risks, because—

Q105 **Bim Afolami:** But you are satisfied that internally. In broad terms, you are happy with that. You are not planning to change that, or beef it up, any time soon. You think that you can identify the new risks.

Jim Harra: We constantly look at how we can get more responsive. Look at trends over the past 100 years. It took many years to get up to, say, 10 million people flying on aircraft. It took virtually no time to get up to 10 million people shopping on eBay. The world is getting faster and faster all the time in the way that it changes, so we have to look constantly at how we can get more responsive.

Q106 **Gareth Snell:** You very articulately explain what the problems are with this particular way of selling at the moment. Both of you, Mr Dishman and Mr Billante, are genuinely aware of the problem; you have quite a lot of resource to fix it; you have a lot of time; and you can take it very



HOUSE OF COMMONS

seriously. Rather than just telling me what you are already doing and, without making it about simply the volume of sellers whom you now have a VAT registered number for, will you tell me, if you were to come back in six months' time, what changes will have been in your organisations and what will have been advanced to mean that you could take this even more seriously than you are now?

Chair: In alphabetical order.

Joe Billante: Sure. I think you will see that we will still have the same level of resources dedicated to this, but also that we have more and more technology enhancements to do this at scale. There are always ways that folks who do not want to do the right thing try to engage in our platform and find different ways back in. We continue to build more ways of detecting, triangulating and preventing that from happening. We will be enforcing our policies. We will still be operating in the way we do today in terms of ensuring that people display the VAT number. We will certainly be responding to any specific notices we get.

I think there will be more technical solutions. We run a complex global platform. Other jurisdictions beyond yourself are looking at more changes like this and things that we need to do. For UK sellers exporting around the world and other sellers selling here, this is a challenge and this is an initiative that needs more and more technology to help solve it, to make it easier to comply with, to make it easier for us to detect and prevent sellers that are not compliant or do not follow policies to remove immediately, and to make sure that we are one step ahead.

Steve Dishman: We will continue to do all the existing activities and double down where possible. One area that I would specifically highlight is the work we are doing on the technology development on this compliance tool, which we think is a really important step. It is not just, once we have a VAT registration, enabling all sellers—UK sellers, as well as non-EU sellers—to do all their VAT returns with three or four clicks of the button. It will allow them not just to put their Amazon transactions on the return, but to import transactions from eBay, Alibaba, Rakuten and so on, as well as their offline transactions. We see this is a little bit of a game changer, and it is something we are really quite excited about and investing heavily in.

Q107 **Nigel Mills:** The risk is that you are painting quite a rosy picture, so I have a couple of questions for Mr Harra. But first, Mr Billante and Mr Dishman, if my maths are right—if we are losing £1.5 billion-worth of VAT—that must equate to £7.5 billion-worth of sales at 20% VAT. The NAO Report suggested that the total size of the market for non-store online sales was about £25 billion. That is something like 30% or a third of all sales by value going through your marketplaces in the UK being non-compliant. That is not just a few naughty customers who have not quite published their number. This is billions and billions of pounds of transactions. I do not know what your UK turnovers are—perhaps you could tell us—but are you sure that you cannot spot this a little more quickly and do a little more about it given the real scale of it?



HOUSE OF COMMONS

Joe Billante: I cannot speak to the £1.5 billion number as calculated, but I can tell you what data I have in front of me, based on the activity we have seen. The notices I mentioned earlier—the 184 seller accounts that we suspended based on the JSL notices—amounted to a total revenue number of £4.6 million in the previous year. I cannot reconcile why the big differences are there. If I include all the other internal actions that go beyond the law in violation of eBay policy, it includes 2.3 million listings, but still £9 million of revenue. It is hard to understand how to reconcile the two, but those are the data I have in front of me and the actions we have taken.

The other thing I would mention is that, of some of the online numbers mentioned, I am not sure whether they are specific to this issue or not. In total in our marketplace, 90% of our business is still domestic sellers selling to domestic buyers, so of the 200,000 professional sellers who are on our platform, the lion's share are domestic sellers. Even after that, the next biggest bucket are sellers within the EU, and 157,000 of the sellers are UK-based.

Q108 **Nigel Mills:** Perhaps I can turn to Mr Harra. We did not quite nail you down on some targets. We are losing £1.5 billion a year, and that is a couple of years out of date. When are you next planning on assessing what this particular tax gap is? Are you going to do an assessment once your 2016 changes are in place?

Jim Harra: We'll have to look at that. This tax gap was estimated for policy-costing purposes, and obviously for the 2016 measures that are going through, it is something we will want to monitor, but it is a top-down estimate. Professor de la Feria talked about there being a range of estimates, and I am not sure we will be able to come up with a much more precise one than that, but we will certainly keep it under review.

Q109 **Nigel Mills:** So when will we see a new assessment? It's a growing scale of problem.

Jim Harra: We publish the tax gap every year, and there will be another measure of that due out next month. Whether we will be able to refresh this tax gap, we will have to look at that, because it was done for policy-costing purposes, to inform how much revenues we think we can get from the measures we were introducing.

Q110 **Nigel Mills:** Okay, but you're about to cost a new policy of your split revenue.

Jim Harra: Potentially. If we were going to do that, we would obviously want to look at what we think the impact will be, but what I cannot do is promise you that this is a very dynamic analysis that we can do, because it is an estimate; it is not a measure. But it is something we will keep under review.

Q111 **Nigel Mills:** So when will you assess how effective the 2016 rule changes have been?



HOUSE OF COMMONS

Jim Harra: We are already monitoring how much revenues we are getting from those businesses that have been prompted to register, from those that we have forcibly registered and are making assessments against, and from the actions of the National Imports Taskforce. What is much more difficult for us to measure is the other behavioural changes. We have mentioned the number of sellers that have been taken off the marketplaces.

Q112 **Nigel Mills:** That is why you need the tax gap, isn't it?

Jim Harra: That shifts the demand, hopefully, on to compliant sellers, where we would be seeing VAT being paid by them. That is obviously a behavioural effect that is very, very difficult to measure and capture, but we do evaluate whether we are achieving the yield that the OBR has certified that we will achieve.

Q113 **Nigel Mills:** I didn't hear many years or numbers there, Mr Harra. I think you suggested that you would want to get the tax gap down to the general VAT one of 10%. Is that something you think you could do by 2020 or 2022, if you got the split payments in? What could you get it down to without that? Is it down to 15% without that next rule change?

Jim Harra: We have forecast what we believe we will achieve by 2020, which is about £350 million a year off this gap. That does not bring it down to the kind of level where you would say, "There is non-compliance in here, but it is of the same magnitude as the rest of VAT payers," which is why we think we would need further measures. If the Government come forward with split payment proposals, they will indeed estimate what additional revenues they believe they will obtain from that. It may be that we will need to come up with a refreshed measure of the tax gap in order to support those costings.

Q114 **Caroline Flint:** Mr Harra, over 7,185 overseas sellers registered for VAT last year. How many have declared all their unpaid VAT?

Jim Harra: Some of them have been very recent, so we have to track their performance. We do monitor that they are making returns and that they are paying VAT. Over a longer course, we may well select their returns for investigation, to check whether the amount they are returning is correct.

I think there is a key risk at the moment. Because of the welcome actions that the platforms are taking around VAT numbers, some sellers will come to get a VAT number, because that is what they need to keep selling on the platform, but they may have no intention of complying or may intend to comply but just think it is all too difficult and not do so. We have to follow through and make sure that those who register then make the returns and make the payments, and when we check their returns, that the values they have been putting in there are correct. We are definitely monitoring these people and tracking their behaviour.

Q115 **Caroline Flint:** Where does clawback fit into all this? Obviously, with these notifications, you have done some testing already, and you have in



HOUSE OF COMMONS

the NAO Report some of the notices that have been issued. Where does clawback feature in this?

Jim Harra: Clawback in the sense of—

Caroline Flint: Clawback in the sense that they may not have been paying their VAT for some time. It is not only getting them back on the straight and narrow; it is how much you get back.

Jim Harra: They have to pay their historical liabilities, plus interest, plus penalties. For example, in the case of businesses to which we have issued a joint and several liability notice and they are thrown off the platform as a result, we will not remove that notice until they are complying, both going forward and until they have settled their historical liabilities.

Q116 **Caroline Flint:** How many years back does that go?

Jim Harra: It depends on the nature of the non-compliance, but if the culpability that we can show is fraud, I think it is 20 years that we can go back.

Q117 **Caroline Flint:** Is HMRC freezing VAT evader's PayPal and Amazon payment accounts?

Jim Harra: I am not aware that we have any powers to do that.

Q118 **Caroline Flint:** You haven't got the powers to do that, you don't think? Would you like powers to do that?

Jim Harra: That is something that we could look at. We have focused on the fulfilment houses and the platforms, because that is where we believe we can intervene effectively at this time. Intervening on payments would definitely need new powers, some of which I suspect would not be within our boundaries under EU VAT laws—certainly, split payments, for example, is not.

Q119 **Caroline Flint:** Obviously, you will be looking to create a register of fulfilment houses, as has already been mentioned in the Committee. How will you do that? The Report says there are between 500 and 3,000 fulfilment houses out there. Obviously, Amazon should be able to provide you a list, if it hasn't done so already; it could provide that for you tomorrow for its places. How are you going to track this, and where are you going to get the information from?

Jon Thompson: We have an evidence and research base that gives us the first 500, which we think is a sound estimate. The reason we have gone up to 3,000 is because we think we can identify, from our own work, approximately another 2,500 businesses in the UK that look like fulfilment houses. We know we have a solid base of 500, but we think we have an additional 2,500. The onus will be to register in April 2018. They have three months to do that and pass the necessary tests in order to be able to operate.

Q120 **Caroline Flint:** Is that for the fulfilment houses?

Jon Thompson: Yes.



HOUSE OF COMMONS

Q121 Caroline Flint: On the overseas sellers' relationship to whoever they are working with, why can't, for example, the 7,185 overseas sellers who registered for VAT last year provide you with a list of the fulfilment houses that they are working with. Wouldn't that make it easier?

Jon Thompson: They could. I am happy to look at that idea; it is a good idea. Thank you very much. The technology that we have—

Chair: Ms Flint, you are wasted on this Committee. Offer her a job.

Jon Thompson: I am very happy with suggestions. It was a good idea. Thank you very much.

Caroline Flint: I am notching up the yeses. Trying to get an efficient system for this, rather than chasing your tail for these fulfilment houses, is key. Let me ask you something else. We have a copy of this Ipsos MORI report—"Prevalence of individuals shopping online from overseas and handling VAT"—which HMRC presumably commissioned.

Chair: Hot off the press.

Caroline Flint: Hot off the press—September 2017.

Jon Thompson: They should have delayed it.

Chair: I think it was released yesterday. It is very helpful.

Q122 Caroline Flint: Surprise, surprise—just before we meet. In the last paragraph, when it talks about what more consumers can do, it says: "Raising awareness of when VAT and customs duty should be applied could help give consumers the capability to identify compliant and non-compliant overseas sellers." It then goes on to say: "If consumers could be given simple tips on how to identify non-compliant sellers this would enable motivated consumers sufficiently motivated to avoid shopping from them."

Please reassure me that you are not offloading this problem on to consumers to sort out. The report also indicates how complicated this is for consumers, who tend to look at things like price and quality. Also, how on earth can consumers be your agents in regard to fulfilment houses? Please reassure me that poor old consumers will not be landed with the job of sorting this out.

Jim Harra: I can reassure you on that. One of the purposes of carrying out the research was to understand whether we can harness consumer power to help us. One interesting, key bit of information that comes out of that is that one of the top four reasons why a consumer chooses a particular seller is their seller review record on the platform. We believe that that strengthens the power of the joint and several liability notices, because when sellers are kicked off the platform they lose their reviewer history. If they come back as a phoenix, which is one of the risks the Committee came on to, they do not have a seller review history to support them. We believe that sellers will recognise that as a key asset that they will want to protect.



HOUSE OF COMMONS

Q123 Chair: So you're saying it is only part of it. Are you reassuring Ms Flint that it is not the main focus of HMRC policy?

Jim Harra: Yes. Personally, I think the research report shows that there is pretty limited scope for us to harness consumer power.

Chair: I am glad to know that you are a realist, Mr Harra. We all like optimists, but, you know.

Q124 Caroline Flint: May I finally go back to Mr Dishman and Mr Billante? I understand, Mr Dishman, that Amazon does regular presentations at Chinese trade fairs to recruit overseas sellers. I also understand that Amazon either has bought or is in the process of buying a shipping company. Then alongside that you have your own fulfilment houses, and you manage the payment as well. The way management of payment goes is that you take your fee on whatever product is sold. I have to say that that sounds to me like a very embedded relationship with the seller. Is it not the case that Amazon is making profits from fraud?

Steve Dishman: We are not part of the supply chain—I think that is what you were saying.

Q125 Caroline Flint: No, you are delivering. You go to China and you recruit sellers. Is it true that you are buying a shipping company?

Steve Dishman: The individual businesses are selling directly to the customer. We are providing a fulfilment solution to some of those sellers. That is all we are doing.

Q126 Caroline Flint: And the cash collection happens as well, doesn't it?

Steve Dishman: We provide the cash collection, yes.

Q127 Caroline Flint: So what is stopping Amazon at the point at which you do that cash collection from taking off the 20% VAT and just handing that over to HMRC? At the end of the year, the seller can check out through its return whether it needs to get a clawback from overpayment or pay more?

Steve Dishman: I think it is a function of the law. It is what we were talking about in terms of the split payments. The whole idea of the split payments would be to do almost exactly what you are saying: it would be to deduct an amount of VAT from those receipts, whether we do it or the financial intermediary does it.

Q128 Caroline Flint: But as it stands at the moment, if an item costs, say, £400, and you take off, say, 10% of that for your fee, if that company does not then pay its VAT, you have taken 10% of an income to that seller that is enhanced because it is not paying VAT, and therefore you have enhanced your payment from that company.

Steve Dishman: Our focus is very much on—

Caroline Flint: Is it not the case that that is happening?

Steve Dishman: We are not part of the supply chain. We are providing a fulfilment service.

Q129 **Caroline Flint:** No, but you are taking money that has been fraudulently—

Steve Dishman: We are taking money, but that is not the way the law works. I think the change that you are taking about is very much the split payment method, whether it be a deduction from receipts—

Q130 **Caroline Flint:** Whatever your relationship to the seller, the by-product of both Amazon and eBay, Mr Billante, and other online marketplaces, is that you are profiting from the evading of tax by these overseas sellers. That is just a fact, isn't it?

Joe Billante: Was the question to me?

Caroline Flint: Is it not a fact that if you have overseas sellers using your marketplace and they are not paying VAT, and you are taking money off them for every product sold through your online marketplace, whether it is intentional or not, the fact is that the system is creating you as profiteers from the evasion of tax.

Joe Billante: To be clear, I don't want any of these sellers on our platform. If someone is not compliant and we are notified and we have specific knowledge, we take action. We know that there is a general issue—we understand that. We also are not part of the supply chain, but we do not stop at the bare minimum of what the law requires; we go above and beyond that. We try to enforce policies that are more strict and we do what we can, but as a third-party business we do not own and operate any fulfilment houses; we do not have any inventory.

Chair: You don't, but Amazon does.

Q131 **Caroline Flint:** You don't, but I think the answer to the question is simple. It is acknowledged in the NAO Report that there is between £1 billion and £1.5 billion a year of tax that is not paid that should be. You are the two big players in this online market in the UK. We know it is going on. Is it not the case that, through your relationship with these overseas sellers using your platform, you are—perhaps inadvertently in this situation—profiting from the fact that these overseas sellers are not paying their VAT? Your take is on moneys gained on which tax has not been paid, so you are making profit over and above what you should?

Joe Billante: I think I mentioned before the specific numbers relating to the JSL notices in addition to our own.

Q132 **Caroline Flint:** Mr Dishman?

Steve Dishman: We would like all bad actors off our platform, and we have a commercial interest in doing that. We want to have a level playing field so that all sellers can compete equally. We have hundreds of thousands of UK sellers who are selling, and their exports are growing year on year—we exported £1.8 billion last year.

Chair: We know; there is no need to repeat those figures.

Steve Dishman: That is why we are focused on all those different areas.

Chair: Will you answer Ms Flint's question?

Q133 **Caroline Flint:** But it is just a fact and common sense, and I don't know why this is so complicated, because everyone has acknowledged that there is a problem with these overseas sellers and the way in which some of them are using their entry into the UK market. We also know about—let's not forget about this—the many, many businesses that are playing by the rules, which are finding themselves competing against a form of competition that isn't competition at all. They are not only losing trade, but their businesses are going under. Again, I say that you recognise that there is a problem with some of the people using your online marketplace who are breaking the law and are not paying their VAT. Is that correct?

Steve Dishman: We recognise that there is a portion of bad actors, yes.

Q134 **Caroline Flint:** You recognise that. And each of those companies that are doing that, and have been doing that, pay you a fee for your service. Is that correct?

Steve Dishman: They are also substituting what would have been a fee—

Q135 **Caroline Flint:** Do they pay a fee for your facilitated service?

Steve Dishman: Again, this is a small minority of bad actors. We don't want them to take a sale from a UK—

Q136 **Caroline Flint:** I think you said it was a third—

Nigel Mills: No, I said that.

Caroline Flint: Well, my colleague said it, but you did not dispute that, so let's keep with the third.

Steve Dishman: The third was a reference to the number of VAT registrations that we did not have on file for those non-EU sellers. That does not make them non-compliant. The non-compliance sellers that we have received on relate to the 416 notices that we have taken down, and that represents about £92 million of revenue and £18 million VAT.

Q137 **Caroline Flint:** We are talking about billions of pounds of VAT lost to HMRC and therefore lost to the UK. Alongside that, it is putting out of business legitimate companies that are playing by the rules. The question is this: whether it is a tiny amount, a middling amount or a colossal amount, the fact is that this is happening, and therefore when those companies pay to Amazon their fee, you are taking fees on the basis of companies operating illegally in regard of their tax. As a result of their not paying their tax, whatever percentage you take is probably higher than it should be, so you are profiting from this illegal activity.

Steve Dishman: We are focused on having a level playing field on our marketplace, so that everyone can compete equally. There is commercial



HOUSE OF COMMONS

self-interest to have that happen, because we need all sellers, the majority of whom are British, to be able to compete equally. That is what we are focusing on. That is what our series of actions is doing.

Q138 **Caroline Flint:** I'll just ask this question one last time. If there is an overseas seller on your platform who is not paying their due VAT and they pay you a fee in your contractual financial relationship, you are therefore inadvertently profiting from the illegal activities of someone using your marketplace.

Steve Dishman: We are focused on getting—

Q139 **Caroline Flint:** Is that the case: yes or no?

Steve Dishman: We are focused on getting bad actors off our platform. We have a series of measures for doing that and—

Q140 **Chair:** Mr Dishman, can we just be clear? Whether they are deregistered or not, if they are not paying their VAT, you have still got your commission. Amazon still takes the commission.

Steve Dishman: We receive commission, but our focus is on getting bad actors off our platform.

Chair: We hear what you are saying about what you are doing to tackle it, but you are still getting the commission from people who have defrauded the British taxpayer.

Thank you very much for coming. The transcript will be up on the website uncorrected in the next couple of days. I ask you to vacate the room reasonably quickly because we have a vote at 4.30pm and we need some time to deliberate privately on what we intend to recommend. Our Report will be out in October or November. Mr Thompson, we will send all the relevant information on the purchases that we made as mystery shoppers. Thank you.