

Written evidence submitted by Retailers Against VAT Abuse Schemes (RAVAS) (TERS0002)

Key Conclusions of this Submission

- Bad Actors selling goods online evade VAT to gain a competitive advantage over law-abiding businesses. Distortions of Competition caused by the evasion of VAT cause significant harm to domestic retail both on the High Street and Online. This harm in turn damages the UK economy through reduced tax revenue and employment.
- Obvious flaws in the ID verification systems operated by Companies House and HMRC enable Bad Actors to easily obtain UK Company registrations and VAT Numbers. They use these to pursue negative and fraudulent behaviour that includes the evasion of VAT.
- HMRC has no effective mechanism for enforcing VAT on imports below £135 in value. Import VAT is no longer due on business to consumer, non-excise goods sent in consignments valued at £135 or less. It is assumed that the overseas business has complied with UK legislation that obligates it to register for UK VAT, an entirely unenforceable obligation.
- Whilst some effective measures to combat VAT evasion in online retail have been introduced, there remains a significant and immediate problem. A timescale of 5-10 years to deal with this problem is not in the view of RAVAS a responsible approach.
- Whilst outside the scope of this report the non-payment of Import Duty also gives rise to distortions of competition that are as damaging as the non-payment of Import VAT.
- HMRC is the authority responsible for the administrative and judicial application of VAT in the UK. RAVAS believes that this responsibility extends to ensuring that the abuse and evasion of VAT does not distort competition. This is because only HMRC has day to day visibility of the abuse and evasion.
- Measures that need to be implemented to mitigate the ongoing evasion and abuse of VAT include:
 - i. Extending Deemed Reseller rules to UK-established businesses so that Online Market Places (OMPs) collect VAT on all sales. This would end a loophole in the law enabling a plethora of abusive behaviour and would raise much needed revenue for HMT by reducing that abuse. It would also secure VAT collection from established UK businesses currently evading VAT and protect law abiding businesses from abusive VAT free

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competition. 56% of UK SMEs are responsible for the UK tax gap and a significant number of them trade on OMPs.

- ii. Introducing more robust identification for non-resident sellers applying for a UK company or VAT number in accordance with the Economic Crime and Corporate Transparency Act 2023 (ECCTA) as part of a central database that can be referenced by OMPs and marketplace sellers.
- iii. Introducing more robust guarantees for payment of import VAT, for example a VAT representative capable of paying import tax debts should the seller abscond.
- iv. Making customs brokers responsible for the correct value declaration of goods that they import on behalf of their clients, and for the payment of any VAT or Duty if necessary.
- v. Preventing private sellers on eBay selling multiples of the same item (Private Sellers are deemed not to be businesses yet eBay does not place restrictions upon the items they can sell)

About RAVAS

1. RAVAS is a campaign group representing UK retailers impacted by anti-competitive practices that are reliant upon the evasion and abuse of VAT. RAVAS was set up in 2009 by online/mail order businessman Richard Allen to represent Small and Medium sized Enterprises when complaints about this issue were not being taken seriously by HMRC.
2. Campaigning by RAVAS has been instrumental in highlighting online VAT evasion and abuse. This work has initiated changes to UK law that have had a significant positive impact upon VAT revenue. To date the campaigning of RAVAS has resulted in the collection of billions in VAT that was previously being lost to fraud.
3. In 2012 through a complaint to the EU Commission RAVAS brought about the end of an abuse of the Low Value Consignment Relief (LVCR) by retailers shipping UK sourced goods to UK consumers via The Channel Islands. According to HMRC this saved at least £90m per year in VAT that would otherwise be lost, although music industry figures that RAVAS submitted to the EU Commission indicated that the figure was significantly higher.

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4. In 2015 RAVAS contributed to a report by Ernst and Young for the EU Commission *Assessment for the Application and Impact of the VAT Exemption for Importation of Small Consignments*. This report was a key step towards the abolition of LVCR in the EU and UK in 2021.
5. Between 2015 and 2017 campaigning by RAVAS with VATFraud.org exposed a Billion Pound VAT Fraud committed by Chinese online retailers who were evading VAT in plain sight. In 2017 RAVAS contributed to the NAO Report *Tackling Online VAT Fraud and Error*. Richard Allen appeared in the BBC Panorama documentary *The Billion Pound VAT Scam* and gave oral evidence to the PAC. Both the NAO report and Panorama documentary highlighted a failure by HMRC to detect and prevent VAT evasion by Chinese sellers operating on eBay and Amazon.
6. In 2021 legislation was introduced that made OMPs collect VAT on behalf of sellers not established in the UK. This Deemed Reseller legislation has largely been effective but has been subject to abuse due to its partial scope. Under the new rules, which currently only apply to businesses not established in the UK, the OMP charges and collects the VAT from the purchaser and remits this to HMRC. As a result, HMRC now collects an extra £1.5 billion per year in VAT, a figure five times greater than the £300m HMRC had predicted was being lost in 2017. HMRC's assertion that this difference was due to a permanent 500% increase in online sales is contrary to data published by the Office of National Statistics which reports an increase of only 6.9% in online sales from February 2020 to May 2022. Whilst Brexit has no doubt caused an increase in e-commerce imports subject to VAT, the 2021 legislation clearly captured VAT that was previously being evaded on an industrial scale.
7. More recently RAVAS made significant contributions to the NAO Report *Tackling Tax Evasion in High Street and Online Retail*. This submission is made with that report in mind.
8. More details about RAVAS and Richard Allen can be found on these links:
<https://www.ravasglobal.com/copy-of-about>
<https://www.newstatesman.com/business/2020/09/record-shop-taxman-and-missing-billions>
9. RAVAS has published through *Croner-i* an overview of the tax issues impacting online retail (mail order) in the UK that also suggests a number of

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solutions. For reasons of brevity that overview will not be repeated herein but the article can be found in the Appendix to this submission and relevant suggested solutions from that article have been included in the Key Conclusions outlined above.

10. For the purposes of this submission, whilst nationalities other than the Chinese are engaged in the abusive practices outlined herein, the majority of manufactured goods come from China and it follows that Chinese entities are the most common abusers. Chinese Retailers see VAT as an option rather than an obligation.

There is an ongoing Distortion of Competition caused by the evasion, avoidance and abuse of VAT that is causing significant harm to domestic retail both on the High Street and Online that in turn harms the UK economy.

11. By way of illustration of the scale of the ongoing problem, in early 2023, RAVAS was approached by the BBC who had been contacted by a Mr. Davies who lives in Wales. Mr Davies had received 11,000 tax bills addressed to Chinese owned UK Limited Companies registered at his second home. This had been done without his knowledge or permission. The total sum owed by these companies to HMRC was in excess of £500,000 and after being unable to get any response from HMRC he contacted the BBC, who then made contact with RAVAS via tax campaigner and lawyer Dan Neidle, of Tax Policy Associates.

12. Recognising that the paperwork related to Chinese companies involved in online retail RAVAS recommended that the BBC hand the documents to the Public Accounts Committee (PAC). In March of 2023 the PAC questioned Mr. Harra, Chief Executive of HMRC, in relation to these tax demands and the companies involved.

13. In his letter of the 29th of March Mr. Harra wrote to the Chair of the PAC, Meg Hillier MP. His letter stated that Mr. Davies would receive an apology and an explanation as to why his address had been used. It also stated:

- 2356 of the 11,000 companies had a tax debt
- There was no evidence of fraud or fraudulent intent
- 70% of the businesses registered at Mr. Davies address operated on OMPs
- 95% of those businesses trading online had accounted for VAT through OMPs that since 2021 had collected VAT on businesses

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registered overseas (the implication being that the businesses registered at Mr. Davies address were not claiming to be established in the UK)

- The remaining 5% of those businesses selling online had probably made sales that did not attract VAT and
- There was no evidence that the remaining 30% of the overall number of companies sold goods in the UK were subject to VAT.
- HMRC had acted to prevent any further letters and companies being registered to Mr. Davies' address.

14. In January of 2024, in a monthly briefing sent to MPs, HMRC stated the following:

"We are writing to around 12,000 VAT-registered businesses to ask for evidence to prove they are established in the UK. Conducting this exercise will ensure our records are updated to reflect which businesses are not established in the UK and improve the integrity of the VAT register.

There is evidence to suggest that some overseas traders, who are categorised as Non-Established Taxable Persons, have incorporated companies in the UK and provided UK address details to online marketplaces in an attempt to avoid the rules requiring online marketplaces to account to HMRC for VAT on the traders' sales."

15. The briefing appears to sow doubt as to the accuracy of the information that Mr. Harra had previously given to the PAC i.e. that 95% of the businesses trading online registered at Mr. Davies' address had declared a non-established status and had therefore accounted for VAT through OMPs. As noted in HMRC's briefing, overseas traders not established in the UK had incorporated in the UK and registered for VAT, to avoid OMPs collecting VAT on their sales. RAVAS suspects that a large number of the companies registered at Mr Davies address had done this.

16. Mr. Davies was never given an explanation by HMRC as to why his address was used to register thousands of Chinese companies for VAT. RAVAS has determined that another apartment in the same building was used as an address by a Chinese business that described itself on its Chinese website as a "Tax Management Platform". An error caused by the omission of one number

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in the address resulted in Mr. Davies' receiving mail that should have gone to this business. Mr. Davies has continued to receive demands addressed to Chinese entities managed by this Tax Management Platform, most recently in November of 2024. Demands against one Chinese company involved in 'distance selling of general catalogue' total just under £224,000 and were issued by HMRC in October and November 2024. It is worth considering that an under declaration of VAT and duty of this size represents goods with a wholesale value of more than £1m.

17. Given the amount of publicity this issue has received on the BBC and in the National Press and the van loads of mail sacks delivered to Mr Davies' address it is surprising that nobody from the intended address nearby has knocked on Mr. Davies door and asked for their mail back. It is also surprising that these 11k businesses appear to have sailed through two checkpoints that should be protecting the UK VAT system. Before these sellers even got onto a marketplace i) Companies House should have spotted them and ii) HMRC should have carried out robust registration checks. Instead, it was spotted by a voluntary campaign group.

18. The Tax Management Platform acting as the hub for tens of thousands of Chinese businesses was registered as a Ltd company in the UK in July of 2022. However, it was dissolved via a voluntary strike off in July 2024 having only ever filed one set of dormant accounts during its brief existence. It appears that HMRC are not only sending demands to a wrong address but they are sending them to a business that no longer exists. Based upon what RAVAS has seen there appears to be significant reason to suspect fraud, contrary to what Mr. Harra told the PAC in 2023.

19. It is clear from this example and a recent report by LBC (*Welcome to China Street; The Fraudulent Businesses Taking Over UK Homes creating a Huge Tax Black Hole* 27 Nov 2024) that the situation is completely out of control.

HMRC and Companies House need to work collaboratively with Online Market Places to create a central company register to combat fraud as a matter of urgency.

20. Whilst the determination of the establishment of a business is a complex area of law, essentially for a business to be established in the UK it must demonstrate that control and decision-making functions are in the UK. Merely having a UK registered company and UK VAT registration is not

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sufficient evidence of establishment. However, prior to 2019, HMRCs VAT registration application form did not even ask if a business was established in the UK. Furthermore, HMRCs website states *“We would normally consider a company which is incorporated in the UK to have an establishment in the UK as long as is it also able to make or receive business supplies at its registered business address”* which is a vague oversimplification that requires urgent clarification and expansion by HMRC to provide OMPs with the information required to detect sellers misrepresenting their place of establishment. HMRC currently expects OMPs to determine if a business is established in the UK but has failed to provide clear guidance as to how this should be done. This lack of clarity is highly likely to result in different results from one OMP to another, creating a rather perverse outcome and allowing bad actors to hop around to find the weakest link.

21. More ID is required to withdraw a library book than is required to register a company and obtain a VAT number in the UK. It is far too easy for Bad Actors to obtain both a VAT number and UK incorporation.
22. HMRC has stated to MPs that they have been working on updating their records to identify Bad Actors, but RAVAS is not aware that they have confirmed publicly that they have updated their records or how they plan to make this information available to OMPs to ensure that everyone is working from the same data. Given that OMPs are expected to determine the establishment of a business under the current rules it is essential that they are working from correct information. i.e. HMRC should be working with Companies House and OMPs to create a more robust company and VAT registration register, that flags when a business is considered not UK-established. This can include verification of business address and director IDs (per the ECCTA) and the collation of seller information from OMPs to come to a determinative view. The recent NAO report also recommends this closer collaboration between HMRC and Companies House, but 5-10 years is an unacceptably long timeframe for the changes that need to be implemented. The relaxed timetable suggests a delinquent lack of urgency from the Government, and RAVAS doubts that the authorities would be so forgiving if, say, a private citizen or company had certain knowledge of a fraud or other serious crime and took 5 or more years to act on that knowledge.
23. Overall, RAVAS takes the view that the existing rules are far from robust and are subject to abuse by overseas businesses who are becoming, and will

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continue to become, increasingly adept at falsifying evidence of a UK business establishment.

Whilst some effective measures to combat VAT evasion and abuse in online retail have been introduced, there remains a significant problem.

24. The following is a list of abuses perpetrated by Chinese business who register a company and/or register for VAT in the UK.

- Pretending to be established in the UK to avoid the collection of VAT by OMPs.
- Pretending to be in the UK to misrepresent the location of stock (which will be sent direct from China) or to provide a location for returns similarly giving the impression of a UK company.
- Use of key Company registration documents to legitimise phony crypto websites.
- Operating with no intention of declaring VAT/Duty liability correctly or paying it (note that since the introduction of rules that allow importers to pay import VAT on their VAT return the opportunity to import goods and default on the VAT has arisen. Previously goods would only be released to the importer if the payment of import VAT was guaranteed)
- Acting as a consignee for bulk import consignments that are undervalued or acting as a consignee for individual imports in relation to the abuse of the £135 VAT and Duty Threshold. These are effectively 'burner companies' intended to be disposed of in the event of a tax debt.
- Acting as a clearing agent to handle undervalued import consignments. HMRC recently made declarants on customs declarations responsible for VAT and Duty where the value of goods has been underdeclared and the importer cannot be found. This has caught innocent Freight Companies who cleared goods for Chinese importers unaware that the value of the goods had been undeclared.

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- Registering in Northern Ireland and having goods sent from China using a stolen VAT number. Companies registered in Northern Ireland can avoid VAT collection by OMPs in both the UK and EU. This seems to have driven a huge increase in NI company formations since 2021, which has gone largely unchecked by Companies House and HMRC. Bad actors fool OMP verification processes by stealing a VAT number from another company and creating a company with a name which looks as close as possible to the name of the party from whom they stole the number. This fraud pattern should be picked up and stopped at Companies House and HMRC level, with marketplace checks as an important backstop.
- Abuse of lax OMP rules that allow a central source of stock to be listed under multiple shop fronts on multiple OMPs (Hydra Abuse) This same abuse can be used to avoid registering for VAT (each company stays below the VAT threshold) This abuse includes trading on eBay using multiple private seller accounts thus avoiding a business account (private sellers do not have to pay fees) and not accounting for VAT on sales.
- Abuse of OMP Intellectual Property. Many of these Chinese companies have meaningless and complex names. Companies are generated in bulk with meaningless names that may differ by only one character. They are used by Chinese sellers to sell fake products under a genuine listing. If they are discovered and blocked by the OMP because of a breach of Trademark or IP then they can set up again immediately under another name and carry on selling the same fake product under the genuine listing. Anyone can sell a fake product under a genuine listing.
- Selling dangerous, fake or illegal goods.

Extending the rules that make Online Market Places collect VAT from businesses established outside the UK would block a significant proportion of the abuse.

25. When rules that made OMPs collect VAT from sellers established outside the UK were introduced in January of 2021 it had an immediate positive impact. Not only did VAT revenue from online retail increase by £1.5 billion per year but RAVAS has been informed by operators in the Freight Industry that the

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measures were the most effective Online VAT Fraud measures that have ever been enacted by the UK. Numerous Chinese businesses including Chinese freight forwarders were forced to close because their business model of bringing goods into UK warehouses and selling them online free of VAT, was no longer viable. Chinese sellers who had been selling goods from UK warehouses and ignoring VAT suddenly found that the VAT was being automatically added to their sales by OMPs because they were not established in the UK.

26. Under the new rules the OMP also has to ensure that the VAT number of any company importing goods into the UK and trading on their marketplace is valid. This is to enforce compliance with UK law, make sure that these companies file VAT returns and that their VAT number remains valid. It creates a good compliance and weeds out the unscrupulous Chinese importers who wish to avoid tax.
27. However, Chinese sellers soon discovered that by creating a paper UK company and obtaining a UK VAT number they could pretend to be established in the UK and therefore the OMPs would not collect any VAT. Furthermore, since the UK company has no real substance, it can act as an insurance when mis-declaring the value of imports. In effect it is a 'burner' company that can be disposed of along with the VAT liability.
28. Since 2021 HMRC has been operating Postponed VAT Accounting (PVA). PVA is available to anyone who has a valid vat number. Importers can have their VAT return 'adjusted' to include import VAT and therefore they do not need to pay VAT at the border. Prior to this scheme importers would not be allowed access to the goods unless VAT was paid first or the importer had guaranteed payment by way of a VAT deferment account.
29. Postponed VAT Accounting is a ticking time bomb. Many Chinese companies have obtained VAT numbers and will abuse PVA until either their VAT number is blocked by HMRC or the OMP removes it because VAT returns are not being lodged. Because the companies that fraudsters set up in the UK do not have any real substance then, if any misdeclaration of VAT is subsequently detected by HMRC, there is nobody for HMRC to pursue for the debt. Since UK companies and VAT registrations are easy to obtain and there is no entity in the UK that HMRC can realistically pursue, it is the perfect crime.

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30. HMRC allows VAT numbers to be set up with barely any compliance checks. This has led to wholesale VAT fraud because the importers are not being adequately vetted. Where the importer has disappeared HMRC has been attempting to pursue UK Freight Companies that have unwittingly cleared imports, yet the problem would appear to be allowing the importation of goods with no robust guarantee that Import VAT will be paid in the first place.
31. If OMPs collected VAT from all sellers whether they are established in the UK or not, this web of fraudulent trade would be gone overnight.

VAT Evasion is too narrow a target. The Government HMT and HMRC need to be more proactive and collaborative in identifying the abuse of legitimate practices and proposing effective legislative measures to prevent such abuse before it becomes critical.

32. As illustrated by the abuse of LVCR by the Channel Islands from 1996 to 2012 legitimate means can be used to undermine the VAT system, distort competition and deprive the Treasury of revenue. Whilst the use of LVCR by the Channel Islands was on paper legitimate, the deliberate routing of UK sourced goods via the Islands, to UK consumers to obtain the LVCR exemption from VAT and undercut UK retailers on an industrial scale, was obviously abusive. In 2006 RAVAS provided overwhelming evidence to HMRC to demonstrate it was abuse, yet this was ignored until the matter was brought to the attention of the European Commission who threatened infraction proceedings if it was not prevented. When LVCR was finally removed from Channel Island Mail Order Goods in 2012 HMRC stated that LVCR had been used *“to sell low value goods to UK customers VAT-free, a purpose for which it was never intended”*. As Tim Lyons QC noted in ‘The British Tax Review *“Some traders may well ask if, as HMRC have said, it was never intended that the LVCR should be exploited in the way that it was, and the Government has had power to prevent the abuse, “why did the UK wait to act until 2012?”*’

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33. Similarly, the UK government should not sit back and wait until the current abuse has reached a critical mass but should change the law as soon as possible and allow marketplaces to collect VAT on all UK sales. This would shut down the route for potential abuse once and for all. The EU has recently committed to evaluating this, and the UK should do the same. Such a measure is highly likely to be welcomed by UK sellers who are competitively disadvantaged by loopholes in the VAT rules; there are feasible mitigation measures that can be put in place to avoid any adverse impact on the smallest UK sellers.
34. HMRC can and should act now using their current powers, given legislative change could take a long time. Measures that could be introduced in the short term include; clearer guidance that provides more certainty, more robust checks at VAT registration and when determining establishment, and the proactive sharing of data with online marketplaces including data held on fraudsters. HMRC should act as the single source of truth if OMPs are expected to effectively police Bad Actors consistently.

Whilst outside the scope of this report the non-payment of Import Duty gives rise to distortions of competition as damaging as the non-Payment of Import VAT.

35. The rapid rise of companies like Temu and Shein, sending goods directly from China to consumers in the UK, has raised additional pressing concerns. While these platforms offer lower prices and convenience, the broader implications for the UK economy, employment, and the environment cannot be overlooked.
36. Firstly, the direct-to-consumer model bypasses traditional UK-based supply chains. This often results in significant tax losses, not just VAT but customs duties through the abuse of the £135 import VAT and duty threshold and also where the value of the goods is under declared. Meanwhile, UK high street and Online retailers are required to comply fully with tax laws, creating an unfair playing field. Moreover, these direct imports bypass the jobs and infrastructure that UK-based businesses support, from warehousing to retail staff. Each purchase from overseas platforms represents a potential loss of employment opportunities in our communities.
37. Secondly, while many of the goods sold on the UK high street are also manufactured in China, their economic impact differs. When these products are sold through UK retailers, they support local jobs in logistics, retail, and

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administration. These businesses are also more likely to contribute their fair share of taxes to the UK economy, which funds essential public services. While money inevitably flows out of the economy for imported goods, the presence of local intermediaries ensures greater reinvestment within the UK.

38. The situation threatens to undermine the broader e-commerce ecosystem as UK based online retailers will be unable to compete. This happened in the physical music retail trade between 2004 and 2012 when UK physical music retailers were unable to compete with VAT avoiding Channel Island based retailers. As a result, hundreds of UK music retailers went out of business and the trade only recovered after LVCR was removed in 2012. The success of physical music retail since 2012, particularly vinyl, has been well documented.
39. Lastly, the environmental cost of direct shipping must be addressed. Direct-to-consumer shipping often relies on air freight, a far more carbon-intensive method than bulk shipping to UK warehouses for local distribution. Supporting businesses with sustainable supply chains should be a priority for policymakers to reduce environmental harm.
40. While the affordability of platforms like Temu and Shein is attractive to consumers, it comes at a hidden cost to the UK economy, employment, and the environment. UK businesses, particularly those on the High Street, are generally unaware of the scale and impact of online sellers abusing the rules, but every sale to a fraudster that is able to charge a cheaper price due to the evasion of VAT or a business outside the UK that is able to bypass the payment of import VAT and duty is a sale lost to a UK tax-paying, employment-generating business.
41. The government must examine the long-term implications of direct-to-consumer imports and consider measures to ensure a level playing field for UK businesses. Without urgent intervention, we risk the erosion of local jobs and industries whilst allowing environmental and tax concerns to worsen.

Richard Allen - RAVAS 3rd of December 2024

www.ravasglobal.com

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APPENDIX 1 – Copy of article from Croner-i

Taxing the elephant in the room

Contributed by Richard Allen, online retail VAT consultant and campaign manager for Retailers Against VAT Abuse Schemes (RAVAS)

Background to online retail

Online retail is, relatively speaking, a young industry. It only really stood on its feet in the early 2000s. Of the brands associated with the online retail phenomenon, Amazon is the most well-known; yet for the majority of the 1990s Amazon was seen as a loss-making curiosity. Today, Amazon is an online giant with over 60% of its sales made by third party sellers operating on the Amazon Marketplace and a level of technological innovation that has changed the way that we shop.

Whilst ex-HMRC boss Lin Homer famously described online retail as something that happens ‘in the ether’, the truth is that online retail is mail order, an industry that has been with us since 1861, when Welsh entrepreneur Pryce Jones realised that he could utilise the then new postal service and railway network to sell clothing via printed catalogues to customers all over the world.

In terms of basic principles, mail order today is no different from the time of Pryce Jones.

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However, catalogues have been replaced by the internet, and the internet has enabled international barriers to be broken down, making it easy for anyone to sell goods mail order on a global scale. Catalogues have been replaced with websites that are updated in real time, and language is no longer a barrier to trade. With modern payment services and logistics, goods can be sold and shipped internationally within short timescales and at relatively low cost.

The problem

The problem is that the regulatory infrastructure that governs online retail has remained stuck in the Victorian age, with outdated manual customs inspections and tax authorities incapable of collecting import taxes efficiently due to the enormous increase in international mail order consignments. Gaping holes in customs regulations and procedures have been abused by ever more inventive online retailers, and Governments have been slow to wake up to the problems this has caused. Domestic retailers that have outsourced production of their goods to China have found that they are having to compete with Chinese businesses who have realised they are in position to undercut those UK importers by selling directly to UK consumers and thus cutting them out.

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The growth of this trade has been accelerated by subsidised postage rates and Chinese government export incentives enjoyed by Chinese sellers, whilst low value bulk regulations and 'de minimis' import tax exemptions (a de minimis import tax exemption is a fiscal threshold value below which customs duty and/or VAT is not charged) have allowed Chinese retail outlets such as SHEIN and TEMU to sell directly to UK consumers on an individual basis. The advantages afforded to them by outdated regulations has allowed these companies, and others, to avoid the import VAT and/or duty that would have to be paid by a UK retailer importing the exact same goods as freight.

Because mail order has traditionally been seen as a fringe activity in the world of international trade, and politicians do not want to be seen interfering in what is regarded by the public as a perk, action to correct the imbalance has been slow. A lack of awareness or even interest in correcting these imbalances in regulations means that they have persisted. The truth is that a significant volume of international trade is now online mail order, and the problems associated with it need to be taken far more seriously by both politicians and regulators. The abuse of de minimis import tax exemptions is now a global concern. Companies like SHEIN and TEMU have legitimately exploited these outdated exemptions and flooded Asia, Europe and America with low value goods assisted by generous Chinese Export Tax Rebates and subsidised international postage rates overseen by a secretive Universal Postal Union Treaty.

Fixing the problem

There is a need for a practical and considered approach to this problem. Do Western economies wish to allow Chinese goods to be imported and sold directly to consumers with no tax or tariffs applied to them? Common sense would dictate that to do so endangers domestic competition and manufacturing and at no benefit at all to the economy.

Sadly, in the UK there is a long history of Government ignoring the problems caused when import rules are exploited by online retailers. Back in the early 2000s, Low Value Consignment Relief (LVCR) was exploited by the Channel Islands VAT-free mail order industry, on an industrial scale and to the detriment of many small retail businesses, including my own. The full saga of how I, successfully, campaigned for it to be ended can be read in Will Dunn's excellent feature [The Record Shop, The Taxman and the Missing Billions](#) published in the *New Statesman* in September of 2020.

Low Value Consignment Relief (LVCR) was an exemption from VAT intended for administrative simplification, it relieved low value packets from import VAT and applied to all imports into the UK, which prior to Brexit did not include goods sent from the EU. Before its abolition, the value threshold for LVCR had been set at £18 since 1996 and was lowered to £15 in 2011 but there was an overly generous additional £5 permitted for postage and packing. Taking advantage of the Channel Islands' proximity to the UK, subsidised postage rates and expedited customs arrangements, online retailers deliberately sent goods on a round trip from the UK mainland to the Islands to gain the exemption on their return to UK consumers. Shockingly, this abuse involved major UK High Street retailers and was not only permitted by HMRC but was supported by the Treasury with arguments that claimed it saved money and was operated entirely within the rules.

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The impact on UK retail was ignored for well over a decade, and it took a complaint to the European Commission (EU Complaint Ref 2009/4458) and the threat of infraction proceedings to bring HMRC and the UK Treasury to their senses and finally remove the exemption from Channel Islands Mail order goods in April of 2012 (although it remained available to imports from other non-EU territories). The trade immediately collapsed. It was an extreme example but one that showed the UK at least seemed to have a limited grasp on the harm that unregulated mail order imports could inflict on the UK economy.

Since 2012, thanks to the increase in internet shopping, the importation of goods that are sold directly to the consumer (as opposed to being sold via a UK intermediary) has grown exponentially. In April 2017, the National Audit Office published its report [Investigation into Overseas Sellers failing to Charge VAT on Online Sales](#). This highlighted abuse by Chinese retailers who shipped goods into UK warehouses with mis-declared import values and then sold them on Amazon and eBay whilst not accounting for VAT on the sales. The report was critical of HMRC's slow and ineffective response to the problem. In a PAC hearing examining the findings of the report in September 2017, Jim Harra of HMRC estimated that new Online Marketplace Joint and Several Liability legislation would raise approximately £350m annually. This legislation required online marketplaces to display sellers' VAT numbers or become liable for any unpaid VAT. It did not work effectively because non-UK sellers either listed cloned VAT numbers or simply defaulted on VAT and set up under another name, leaving HMRC to pursue VAT debts from the out of reach overseas individuals who hid behind paper UK identities. Despite claims made by HMRC that the legislation made online marketplaces liable for VAT, it only did so if the online marketplace refused to remove any seller found to be evading VAT, which of course never happened. Campaign groups Retailers Against VAT Abuse Schemes (RAVAS) and VATfraud.org stated that £1bn in VAT was being lost to fraudsters on Amazon and eBay alone, and their criticism of HMRC's performance was detailed in the NAO report.

It is also worth noting the ease with which non-UK sellers have been able to obtain a VAT number and a Limited Company. More ID is requested to withdraw a library book than is required to obtain a company or a VAT number in the UK. This lax regime has enabled fraud on an industrial scale.

Brexit impact

In 2021, some progress was made. Due to the huge increase in mail order imports, the EU had been planning since 2015 to abolish LVCR and collect VAT on all imports. The planned implementation date had originally been 1 January 2021, which coincided with the UK fully leaving the EU and abolishing LVCR on the same date. However, due to technical problems the EU delayed its abolition of LVCR until July 2021. The UK thus abolished LVCR six months before the EU. There were, however, major differences between the way the UK and the EU intended to collect VAT once LVCR was abolished.

The EU created a dual path for the collection of VAT on low value consignments (€150 or less) imported into the EU (including Northern Ireland). Either the seller could register under the Import One Stop Shop (IOSS) and pre-pay the import VAT or the carrier could collect the VAT and additional clearance fees from the recipient. Because of the higher cost

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of paying VAT and clearance fees to the carrier and the inconvenience to customers, the hope was that sellers would opt to use IOSS.

The UK took a different approach, introducing legislation that:

- (i) obligated online Marketplaces such as Amazon and eBay to collect VAT on sales made by sellers not established in the UK; and
- (ii) obligated all non-established sellers not using an Online Marketplace, to register for VAT in the UK.

The removal of LVCR had an immediate and effective impact on online retail VAT fraud in the UK. The UK Office for Budget Responsibility noted in their [economic and fiscal outlook](#) dated October 2021 that HMRC's 2017 expectation of a VAT yield for the year 2021–22 did not accord with the outturn data for same period, after the removal of LVCR and the implementation of the collection of VAT by online marketplaces. They contrasted HMRC's 2017 prediction of £0.3bn against the revised figure of £1.4bn in 2021–22, which was expected to rise steadily to £1.8bn by 2026–27. These figures appeared to underscore the ineffectiveness of the Joint and Several Liability measures prior to the removal of LVCR vs the effectiveness of making Online Marketplaces collect the VAT after that date.

However, despite a move in the right direction, there remains a major flaw in the legislation. Unlike the EU, which has retained the old method of assessing VAT and collecting it from the carrier where VAT is not being pre-paid under IOSS, the UK has, in effect, completely abandoned VAT assessment on all packages with a value of £135 or less.

Whilst UK legislation obligates non-UK sellers/marketplaces to register for/collect VAT, the practical reality is that UK legislation cannot create an obligation in another jurisdiction. HMRC do have powers to pursue UK agents, brokers and warehouses where there has been an under declaration of the value of goods being imported but have no powers to pursue anyone where the value of goods has been correctly declared and a non-UK-retailer has simply ignored the obligation to register for VAT in the UK. Given that unlike IOSS, nothing identifies the VAT status of the sender on the package and UK border assessments of VAT on packages less than £135 in value have been discontinued, HMRC would not even be aware of overseas mail order businesses failing to register for VAT in the UK.

As can easily be seen by placing test purchases, those ignoring the UK's obligation to register for VAT can sell goods to UK customers at a distance, and send them to the UK in the certain knowledge that, if they are below £135 in value, no VAT assessment will be made at the border and the goods will be delivered to the UK customer promptly. In the EU, where VAT has not been prepaid under IOSS, goods are still subject to VAT assessment by the customs authorities. Furthermore, several EU member states insist on a VAT representative who will be ultimately liable for any VAT unpaid by the seller.

The EU arrangements are far from perfect; the IOSS reference number only identifies the sender, not the individual transaction and could easily be cloned, whilst packages not utilising IOSS require manual inspection, but the measures are far more robust than the

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UK's unenforceable Overseas Seller VAT registration legislation. To present this legislation as a solution is highly misleading.

The flawed 2021 rules have created a newly evolved level of abuse in the UK. For example, large shipments of goods can be sent to the UK individually packaged as consignments of less than £135 in value. Under the new Bulk Import Reduced Data Set System (BIRDS), entire container loads of goods can be declared on a spreadsheet, in short form. Undervaluation is hard to detect, and bulk shipments of low value consignments will not attract VAT or duty if each package is addressed to an individual in the UK and is valued at less than £135. Large consignments of goods are thus split into hundreds of smaller consignments and addressed to fake individuals or one of the many hundreds of thousands of mysterious Chinese companies that have been set up at Companies House. Once the goods have cleared customs, these bulk consignments are broken down and the goods are sent to warehouses from where they are then sold on eBay, Amazon or elsewhere. Once the goods are in a distribution warehouse it is virtually impossible for the customs authorities to determine who is the beneficial owner.

It is worth mentioning at this point that there is also an exemption for gifts, which are exempt from VAT if their value is below £39 and exempt from duty if their value is below £135. However, because the exemption only applies to items sent by one private person to another and cannot be used for commercial consignments it is far less open to abuse. It is also somewhat bizarrely policed by HMRC with any charges collected by the carrier unlike commercial consignments of £135 which are just let through as noted above.

HMRC action

HMRC are currently retrospectively pursuing freight agents for VAT, who have unwittingly been caught up in undervaluation scams involving these low value bulk imports, but this has not prevented the abuse of BIRDS or the goods reaching UK consumers tax free or the ingenuity of sellers determined to mislead customs.

Another common abuse is to create a bogus UK company to appear to be established in the UK and thus avoid the collection of VAT by Online Marketplaces. Where fake identities are being used by those intent on circumventing the rules, Online Marketplaces have struggled to distinguish between sellers that are genuinely established in the UK from those who are not. The confusion has been exacerbated by a general lack of understanding of the rules of establishment by sellers and the ease with which a UK company and VAT number can be obtained. More recently a trade in established UK eBay private seller accounts has enabled non-UK sellers to pretend to be a private individual in the UK. It's the Wild West, wherein inconsistent and confused regulations cannot be policed effectively.

If an item is sold directly to the UK consumer from outside the UK with no tax applied, then there is no real benefit at all for the UK economy. Libertarians might argue that UK consumers have the advantage of low-cost goods and more money in their pocket but when compared to the loss of tax revenue and employment this is, in my view, a nonsense. There is a very simple set of solutions to the problems caused by non-UK online retailers being able to avoid paying UK VAT on their sales.

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- (1) Make online marketplaces collect VAT on all sales made by sellers whether they are established in the UK or not. In the case of those using Online Marketplaces, as opposed to selling direct, this would greatly simplify collection for the seller and the tax authorities and remove the need to determine where the seller is established.
- (2) Make any non-resident seller who applies for a UK company or VAT number appoint a VAT representative in the UK who is responsible for paying import tax debts should the seller abscond.
- (3) Make customs brokers responsible for the correct value declaration of goods that they import for their clients, the safety of those goods, and for the payment of any VAT and duty.
- (4) Legislate so that all imported goods held in UK warehouses are clearly marked with the name of the beneficial owner.
- (5) Abolish the subsidy enjoyed by Chinese sellers enabled by the [Universal Postal Union Treaty](#).
- (6) Increase the cost of unrealistically cheap imports whether that be through increased duty, enforced partnership with a UK company, the extension of duty to more classes of goods or the application of fixed fees for clearance. Other countries have adopted measures like these, for example VAT has recently been imposed on all low value imports by South Africa and a similar measure is being considered in America. In India, SHEIN has been forced into a partnership with an Indian company ensuring that value is added to the benefit of the Indian economy. In America the Biden Harris administration has announced [executive actions](#) to address the abuse of de minimis exemption. Over the last 10 years the number of shipments entering the United States claiming the de minimis exemption has increased from approximately 140 million a year to over one billion a year.

The future

The Labour Government has so far made no move to deal with Chinese imports and has not indicated it has any plans to change existing arrangements. This may be due to a desire to attract SHEIN to float on the UK stock market. If this is the case it is, in my view, a mistake. If SHEIN's business model is reliant upon avoiding import duty (they appear to have registered for VAT) then they are no different from the now defunct Play.com that abused LVCR via the Channel Islands entirely to the detriment of the UK economy. SHEIN's wish to float on the UK stock exchange should not be offset against any abuse of the UK's import tax regime. Preventing that abuse would not only protect UK competition, but it would also raise significant sums of tax for the Treasury and encourage domestic wholesaling and manufacturing. The most recent published annual report by HMRC shows that the UK collected a mere £5.6bn in customs duties. It seems obvious that this could easily be increased. Customs duty rates in the UK are presently low. Half of all products attract no duty at all. It is more attractive for manufacturers and consumers to import materials and goods from overseas because there is little or no incentive for them to source from within the UK (see Ian Worth's excellent [article](#) on this subject). When the Channel Island LVCR Mail Order trade was facing shutdown in 2012 defenders, including the Treasury, claimed that ending the trade would result in the collapse of physical music sales because CDs and

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vinyl would become too expensive. However, even though physical music products have increased in price, the ending of the Channel Islands' abuse of LVCR in 2012 has seen record shops thrive whilst physical music retail has gone from strength to strength.

The recent NAO report [Tackling Tax Evasion in High Street and Online Retail](#), to which RAVAS was a significant contributor, has highlighted these problems and the inertia of Government agencies with regards to effective action. I am hopeful that the new Labour Government will realise what needs to be done but I believe that what is required is some kind of Commission that can oversee and organise the kinds of structural collaborative changes that need to take place. I do not believe that leaving each Government agency to continue to apply sticking plasters, when prompted, will in the longer term achieve what is required. I began campaigning on this issue 20 years ago and so far, progress has been painfully slow.

Given the state of the UK's finances, securing an income stream from imports and protecting the domestic marketplace from competitive abuse would appear to be a no brainer.

About the author

In 1994, Richard Allen ran one of the first music retailers on the internet. In 2012, he closed down the first online mail order import tax scam and formed Retailers Against VAT Abuse Schemes (RAVAS). His campaigning was instrumental in persuading the Government to make online retailers collect VAT, and he currently continues his work with RAVAS to end unfair competition resulting from abuses of VAT by Online Retail through a better understanding of the issues and improvements to legislation and UK customs procedures. For further information, see www.ravasglobal.com.

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