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The PAC Hearing
12 November 2012

The PAC hearing yesterday was remarkable in many respects, not least the appalling way in which the members of the Committee treated the three executives from Amazon, Google and Starbucks. Margaret Hodge (as Chair), in particular, appeared to want nothing more than to use the opportunity to soapbox about 'morality and fairness', neither of which has anything to do with tax. Ms Hodge often gave no or little opportunity for the executives to respond to the statements (rarely was a real question actually proffered) she and the other PAC members were making. It was clear that an agenda of 'corporate assassination' had been set and no response (however honest or tempered) would steer the PAC members from this task. It is outrageous for any taxpayer to play by the rules set by Parliament and then be branded 'immoral' and 'unjust' for simply doing so.

What was more worrying, however, was the panel's complete ignorance of how a tax system is designed to function (particularly the trade-offs that are made between raising sufficient revenue and encouraging domestic and foreign investment), how global businesses operate and how they are structured. This seems to stem from either wilful blindness or a total lack of understanding of basic economics. There appeared to be no appreciation of the differences between cost centres and profit centres or the component parts that make up a MNC. The inability of the PAC to appreciate the global nature of MNC's and the choices they are entitled to make as to their corporate structure undermines the UK's standing amongst business leaders around the world. Those running the country ought to have been better informed and knowledgeable – in our view there is simply no excuse for this type of outrageous band standing. Their behaviour yesterday was an embarrassment.

Large corporates are very likely to be better governed than medium and small businesses especially as regards transfer pricing and the methodologies adopted to justify the prices that are charged within a corporate group. There is no doubt that the prices charged will have been benchmarked against open market comparables to allow justification of the arm's length price (against which HMRC can judge the reasonableness of the amounts paid). What the Committee seem to be asking for is for multinationals to artificially adjust their pricing to reflect a greater profit in the UK. This is nonsense in two respects. First, this artificial inflation of profits to allow a 'fair' amount of tax to be paid (whatever that means) will likely mean that the cost of goods and services sold in the UK will increase (leading to general inflationary rises) and, second, UK businesses will have carte blanche to artificially reduce what they charge overseas operations, limiting the profit brought back into the UK. Neither seems a palatable option yet this is what the PAC members seem to support. It is apparent that the consequences of PAC's stated position have not been considered, even at a cursory level.

Perhaps more puzzling, was the Committee's surprise at the tax rulings obtained by the MNCs from the Luxembourg and Netherlands tax authorities. The reality is that each of the MNC's under attack is also likely to have entered into binding Advance Pricing Agreements with HMRC in respect of their transfer pricing strategies (i.e. HMRC has agreed in advance what Starbucks, for instance, pays its Dutch sister company for the coffee beans or what Amazon UK pays Amazon Luxembourg for fulfillment and delivery). It is highly worrying that the Committee were not aware of this or the ability of companies to gain advance clearance from HMRC. Before this panel was convened, it would have been extremely helpful if HMRC had been called before PAC to explain how the UK tax system works. Not only is this necessary, but should now be a priority.

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