



Electronic Money Association

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Alistair Sutcliffe
HMRC
100 Parliament Street
London SW1A 2BQ

11 June 2018

Dear Alistair

Re: Response to HMRC Call for Evidence on the role of online platforms in ensuring tax compliance by their users

The EMA is the EU trade body representing electronic money issuers and alternative payment service providers. Our members include leading payments and e-commerce businesses worldwide, providing online payments, card-based products, electronic vouchers, and mobile payment instruments. Most members operate across the EU, most frequently on a cross-border basis. A list of current EMA members is provided at the end of this document.

The EMA welcomes the opportunity to provide respond to HMRC's call for evidence. We have limited our response to Questions 8, 10, 12 and 13 as they are of most relevance for our sector. We would be grateful for your consideration of our comments and proposals.

Yours sincerely,

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

Q8: What opportunities or challenges are created by users working across multiple platforms or working with platforms indirectly through intermediaries?

We are unaware of online platforms having any visibility of their users' activities on other competing online platforms as there is no sharing of such information between online platforms. Sharing such information without user consent would most likely be in contravention of the GDPR and may give rise to competition law issues. As income-related tax is heavily dependent on an individual or business' circumstances, it will be impossible for an online platform to determine the level of tax that a user should be paying HMRC.

In addition, under Finance Act 2011, Schedule 23, paragraph 13A, HMRC has the right to gather data on payments made to merchants from merchant acquirers, and we understand this is conducted on a quarterly basis. This is much more effective route to obtaining information regarding a merchant's income, irrespective of whether they operate on a number of different platforms.

Q10: Are any of these international examples particularly promising for the UK? How could they be designed most helpfully for a UK context?

Our comments regarding the three country examples provided are as follows:

- France: A requirement for online platforms to provide descriptions of tax obligations would be less onerous than collecting and transferring tax data, or withholding tax. However, there is a risk that, by providing such information to users, online platforms would become liable for the content of the information provided and the ability of the users to understand and implement this information – there would be a duty of care and the online platforms would be liable under negligence. If a similar approach was taken in the UK, to avoid such a liability the material should be provided by HMRC (and clearly identified as such) and there should be a statutory provision exempting online platforms from liability for the content of the tax descriptions and any refusal or failure by users to following instructions or pay tax.
- Estonia: Voluntary reporting requires users' consent for the transfer of any associated users' personal data because of the online platform's obligations under the GDPR because there would be no other lawful basis under which to process the personal data. The voluntary nature of the reporting is likely to mean that the users that HMRC is most likely interested in would not consent. Please note that the online platforms would not be permitted to identify those users that refused consent.
- Belgium: The withholding approach would not work in the case of those online platforms that do not hold funds because generally speaking handling funds / executing payment transactions requires regulatory authorisation as payment service provider ("PSP"). It is our understanding that a common business model in the UK is to use a two-entity model – one entity to provide the online platform and a second entity, a PSP, to handle the funds.

Q12: Are you aware of any problems or challenges that have been presented by these policies? How could these be overcome?

As income-related tax is heavily dependent on an individual or business' circumstances, it will be impossible for an online platform to determine the level of tax that a user should be paying HMRC. We are unaware of any means to overcome this difficulty.

Q13: Do you think these policies are effectively targeted? Do you think they apply to the right set of online platforms?

We are of the view that these policies are not effectively targeted if conducted only on a national basis. We are aware that many online platforms targeting UK users operate from outside the UK and are, therefore, outside the jurisdiction of HMRC. Such online platforms compete directly with UK online platforms and it is relatively easy for UK users to migrate to these non-UK online platforms. Any obligations on UK online platforms should not be more than those imposed on non-UK online platforms with respect to UK users, which in practice will be none unless there is international co-operation along the lines of FATCA and CRS reporting.

In addition, under Finance Act 2011, Schedule 23, paragraph 13A, HMRC has the right to gather data on payments made to merchants from merchant acquirers, and we understand this is conducted on a quarterly basis. This is much more effective route to obtaining information regarding a merchant's income, irrespective of whether they operate on a number of different platforms.

List of EMA members as of June 2018:

[Advanced Payment Solutions Ltd](#)
[Airbnb Inc](#)
[Allegro Group](#)
[American Express](#)
[Azimo Limited](#)
[Bitstamp](#)
[BlaBla Connect UK Ltd](#)
[Blackhawk Network Ltd](#)
[Boku Inc](#)
[CashFlows](#)
[Citadel Commerce UK Ltd](#)
[Clearsettle](#)
[Coinbase](#)
[Corner Banca SA](#)
[Ebanx](#)
[eBay Europe Sarl](#)
[Euronet Worldwide Inc](#)
[Facebook Payments International Ltd](#)
[First Rate Exchange Services](#)
[Flex-e-card](#)
[Flywire](#)
[GoCardless Ltd](#)
[Google Payment Ltd](#)
[IDT Financial Services Limited](#)
[Imagor SA](#)
[Intuit Inc.](#)
[Ixaris Systems Ltd](#)
[Merpay Ltd.](#)
[MuchBetter](#)
[Nvayo Limited](#)
[One Money Mail Ltd](#)

[Optal](#)
[Park Card Services Limited](#)
[Paybase Limited](#)
[Payoneer](#)
[PayPal Europe Ltd](#)
[PayPoint Plc](#)
[Paysafe Group](#)
[PPRO Financial Ltd](#)
[PrePay Solutions](#)
[R. Raphael & Sons plc](#)
[Remitly](#)
[SafeCharge UK Limited](#)
[Securiclick Limited](#)
[Skrill Limited](#)
[Starpay Global Ltd.](#)
[Stripe](#)
[Syspay Ltd](#)
[Transact Payments Limited](#)
[Transact24 \(UK\) Ltd](#)
[TransferWise Ltd](#)
[TrueLayer Limited](#)
[Trustly Group AB](#)
[Uber BV](#)
[Valitor](#)
[Vitesse PSP Ltd](#)
[Viva Payments SA](#)
[Wave Crest Holdings Ltd](#)
[Wirecard AG](#)
[Wirex Limited](#)
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