

Position Paper

UEAPME¹ position on the EU Commission's proposal to introduce a quick reaction mechanism for fighting VAT fraud

UEAPME is in support of controlling and fighting VAT fraud. It is not just Member State budgets that are being hit by revenue losses resulting from fraud. The burdens and competitive disadvantages caused by fraud and affecting a large number of bona fide companies mean that it is in the interest of business to fight VAT fraud. VAT fraud within the EU (for instance so-called carousel transactions) mainly takes place in the field of cross-border transactions and is characterised by high speed combined with a great amount of flexibility, professionalism and coordination on the part of the fraudsters, allowing them to fully leverage the loopholes existing within the European VAT system, whether of a legal or administrative nature. Over the last few years, the steady extension of the reverse-charge mechanism has been the main weapon in fighting fraud.

- **There is a major question-mark over the effectiveness of this mechanism:** We are seeing a clear trend of fraudsters very quickly resorting to other goods or fraud models, meaning that VAT fraud just gains a further dimension. This is nothing but a "tortoise and the hare" situation, with the tax authorities slowly plodding along behind market players intent on fraud.

In the view of business, the quick reaction mechanism (QRM), which does nothing more than speed up the introduction of the reverse-charge mechanism in certain Member States, is not a suitable tool for solving the obvious problems associated with cross-border VAT fraud. This is all the more the case, given that the focus is put solely on the tax authorities reacting to prevent fraudulent transactions. As we have already seen on several occasions, mere reaction to fraud is not enough to control fraud. To gain the upper hand over fraudsters operating quickly, flexibly and professionally and above all in a cross-border environment, a pro-active approach is required. This includes the fast and effective exchange of information between Member States and more manpower and better technical equipment for the relevant tax authorities. In the medium and long term, the existing VAT system within the single market needs to be made less susceptible to fraud. Proposals in this direction have been put forward in the context of the consultations on the Green Paper on the future of VAT.

The QRM proposed by the Commission attempts to counter an EU-wide cross-border problem at national level through authorising individual Member States to introduce a reverse-charge mechanism, i.e. through the introduction of country-specific measures. This opens the door to fraud "wandering" from one Member State to the next, without being fought comprehensively through closer cooperation between Member States. There is thus a major question-mark over the effectiveness of the QRM for fighting fraud.

¹ UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](#).

- **The approach penalises bona fide companies:** Bona fide companies see themselves confronted by (a) increased VAT compliance costs through the extension of the reversed-charge mechanism, and (b) greater risks on account of the existing uncertainty with regard to the actual transfer of tax liability to the recipient of the goods or services. This seems all the more questionable, given the fact that companies act solely as VAT tax collectors for the state and that the final consumer is the one supposed to be burdened.

For bona fide companies, the introduction of the QRM would lead to major problems and burdens, with the existing VAT system being further undermined and made more complicated. For companies operating internationally, the to-be-expected EU-level exemptions, coming on top of the already existing plethora of national exemptions, would mean a complete fragmentation of the existing legal situation. The whole concept of the single market and the associated attempt to harmonise VAT would be undermined, as would be the principle of neutrality. The shortened reaction time would lead to a decline in legal and planning certainty and in reliability for companies. Under the Commission's proposal, it is conceivable that a whole range of national regulations would apply in a parallel manner within the EU, each with its own content and time requirements. Such a patchwork situation would inevitably lead to an increased risk of VAT problems in business transactions, numerous demarcation difficulties, uncertainties and bureaucratic burdens. It would also entail major conversion costs. Bona fide companies would be left to bear the burden of the planned new regulation, the effectiveness of which in controlling VAT fraud is questionable.

- **The conditions under which the QRM is to be applied are too vague:** It needs to be clarified when "duly justified imperative grounds of urgency" (Art 395a.1.4 COM(2012) 428 final) would authorise the Commission to immediately adopt implementing acts and under which / whose criteria such situations would be assessed. Given the many vague legal terms used, it is similarly completely unclear which situations could give rise to "sudden and massive forms of tax fraud in the field of VAT which could lead to considerable and irreparable financial losses" (Art 395a.1.1 COM(2012) 428 final), and when and by whom these would be ascertained. Last but not least, we are surprised by the express decisions (a) not to carry out an impact assessment on the introduction of the QRM, and (b) not to involve business EU-wide in the decision-making process in the Commission and the Council.

Against this background UEAPME is very worried about the direction the EU Commission's considerations on introducing a quick reaction mechanism (QRM) is taking and therefore, UEAPME rejects its introduction.

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