Google's tax-friendly sales pitch

BY TOM BERGIN
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Google defends its low UK tax bills by saying its arrangements are within the law. An examination of its British activities raises questions about that.
In November 2012, Google’s Vice President for Northern and Central Europe was called to an oak-panelled conference room overlooking the Thames to testify to a parliamentary committee about how firms like his reap billions in revenue in Britain but pay very little corporate income tax.

Matt Brittin, dressed in a fitted blue suit and open-necked white shirt, smiled confidently as he explained that Google Inc. wasn’t liable for taxation on UK sales because these were all handled from its European headquarters in Dublin, Ireland. “Nobody (in the UK) is selling,” Brittin told the Public Accounts Committee (PAC).

That’s not how Simon Andrews, founder of advertising agency Addictive, has experienced Google UK. “All the people you tend to deal with are in London,” said Andrews, whose business plans and buys advertising campaigns on behalf of clients. “You would never know about the Dublin thing apart from if you looked closely at the address on the invoices. All the people are based in London.”

The difference is important. For tax purposes, Google, which is headquartered in Mountain View, Calif., says it does not have a British presence. From 2006 to 2011, Google generated $18 billion in revenues from the UK, according to statutory filings, and paid just $16 million in taxes. If the UK tax authority were to decide that UK-based employees do sell to British clients, UK law could consider Google to have a tax residence, lawyers and academics say.

Google UK Ltd. employed 1,300 people at the end of 2011, of whom 720 were engaged in “the provision of marketing services” to Google Ireland, according to its accounts. Google’s chairman, Eric Schmidt, defended the internet search giant’s low tax bills in the UK last month, saying the company’s arrangements are within the law.

A Reuters examination of Google’s activities in Britain shows many roles that actually target, negotiate and close sales of Google’s advertising products to its customers. Research included interviews with more than a dozen customers and former staff, job advertisements, CVs and endorsements on networking website LinkedIn.

There may be a fine line between marketing and sales, but the idea that Google does not sell in Britain raised a chuckle...
from Andrew Johnson, a manager at digital marketing agency Stickyeyes who is based in the northern city of Leeds. His company, which has annual turnover of around 15 million pounds ($23 million), buys a range of services from Google and he has had meetings with account managers in London. “I suppose it goes back to the famous quote that we’re all sales people ultimately because we’re all trying to sell something,” he said. “But they do lots of sales pitches. That’s how we view them. They view them as new product pitches, we call them sales pitches.”

On its corporate website, Google UK says London is home base to “a number of EMEA sales & marketing leaders”, adding, “Most offices outside Mountain View focus on engineering or sales; we do both.”

In late March and early April, the website advertised dozens of London-based sales jobs, whose responsibilities included “negotiating deals”, closing “strategic and revenue deals” and achieving “quarterly sales quotas.”

The LinkedIn profiles of around 150 London-based employees said they were involved in formulating sales strategy, managing sales teams, closing deals or other sales work. Some employees describe how they meet - or exceed - sales targets. David Smith is Strategic Partner Lead at Google in London, according to his LinkedIn profile in late April. His profile said his role involves “selling Media Platforms Solutions to existing Publishers, Agencies and Marketers” and noted that “I constantly exceed target.” His former boss endorsed this claim, posting a recommendation saying he “demonstrated his ability to grow clients at exponential rates taking one agency from $50k a year to over $1MM annually.” Smith, like other Google employees named in this story, did not respond to requests for comment.

Google customers also endorse its London-based sales staff on LinkedIn, at least six profiles show. “An outstanding sales professional” is how David McLeman described Koert Holgrev, Regional Sales Lead for UK, Ireland & Benelux at Google UK, from the time they worked together. McLeman did not respond to requests for comment.

Lawyers and academics say that if Google’s UK staff did agree sales with UK customers, that could open the possibility of much bigger tax bills. The tax authority in France has already challenged a similar structure that the company used in relation to its French subsidiary. But questions of tax often sit in a legal grey area, where a country’s tax authority and the courts ultimately decide.

Google’s Director for External Relations Peter Barron said if UK customers want to buy advertising from Google, the company’s UK marketing staff would encourage them to do so; but only staff in Ireland sold to UK clients. “We comply with all the tax rules in the UK,” he said.

Google has not been accused of violating UK tax laws. Britain’s tax authority, Her Majesty’s Customs and Revenue (HMRC), and Google’s auditor, Ernst &
Young, declined to comment, citing taxpayer and client confidentiality.

Margaret Hodge, chairwoman of the Public Accounts Committee, which heard Brittin speak in November, said the fact Google told parliament it does not sell in the UK while advertising London-based jobs for salespeople is a “very serious” matter. The discrepancy raises questions about whether Google does operate within the law, she said, and whether it misled parliament - a rare offence which in the past has cost government officials their jobs.

“It’s difficult to reconcile the statements made by the witness (Brittin) and the evidence Reuters has uncovered,” Hodge said. She said she plans to recall Brittin to appear before her committee. “We will need to very quickly call back the Google executives to give them a chance to explain themselves and to ensure that actually what they told us first time around is not being economical with the truth.”

Google director Barron said Brittin firmly rebutted any suggestion he misled the committee. But Barron declined to say whether UK-based employees do actually negotiate terms with clients, or why job advertisements told candidates they would be required to perform such tasks.

“Our advertisements for UK staff sometimes refer to sales skills and many of the roles include Sales in the title as we are seeking to attract people with those skills and that background,” he added. “We accept that the wording of some job adverts may have been confusing and we are working to make it clearer.”

**TANGIBLE PRESENCE**

Google makes almost all its money from internet advertising - selling space on its own website, arranging ads on those run by others and offering services, such as tools to monitor internet traffic. Most UK employees work in a multicoloured office block just off Oxford Street - the capital’s main shopping area - fitted out with exposed air conditioning pipes, buttoned fabric walls, floral wallpaper, outsized lampshades and cafeterias offering free food and drinks.

Britten told the parliamentary Public Accounts Committee Google declares hardly any taxable profit in the UK because all its profits are derived from the computer codes developed in California.

He said Google employs “a couple of hundred” staff in Dublin who are responsible for selling to UK clients. The London employees are “digital consultants” who simply educate potential clients about how its products work and direct them to Dublin if they express an interest to buy anything.

The UK unit’s accounts show it doesn’t receive revenue from sales, but fees from Google Ireland and Google Inc., which are supposed to cover costs and include a small premium. Google UK Ltd. reported losses every year between 2006 and 2011, which allowed it to build up tax credits - used to offset future tax bills - of almost $20 million.

Google Ireland Ltd. reported sales of 12.5 billion euros ($16.4 billion) in 2011, but profits of only 24 million euros, and an Irish corporation tax bill of 8 million euros. The low profit comes from the fact it pays most of its turnover to an affiliate in Bermuda, which levies no income tax on foreign-controlled corporations, for the right to use the computer algorithms.

Chairman Schmidt has said he is “very proud” of Google’s corporate structure. “It’s called capitalism,” he told Bloomberg News in December. “We are proudly capitalistic. I’m not confused about this.”

Matt Brittin’s comments to parliament sit uneasily with the recruitment section of Google’s website.

There, the company makes a clear distinction between marketing and sales. It divides its roles into three main categories: “Build cool stuff”, which includes technical and research roles, “do cool stuff”, which includes marketing and administrative functions, and “sell cool stuff”.

“Sell cool stuff” includes four sales sub-categories: Sales & Account Management covers revenue-generating roles. Product & Customer
Google's Tax-Friendly Sales Pitch

Support helps “improve user experience” and collects feedback; Partnerships covers business development; Sales Operations involves supporting sales people. Google’s website says the London office is home to teams in all four areas.

In mid-April, the corporate website advertised 39 London-based positions within the sales team. It offered 21 jobs in Sales & Account Management and nine with Partnerships sub-categories — roles for which the ads tell candidates they will need to be involved in negotiating and closing deals. Only seven London-based jobs were advertised within the “Marketing and Communications” subcategory.

The way Google staff describe their work also differs from Brittin's words.

Account Manager Indi Burton, for example, outlines her role on her LinkedIn profile: “From the initial first call to establish the right contact, I pitch clients over the phone and face to face. Once the client is on board I manage and grow the account and client relationship.” None of the people whose LinkedIn profiles are cited in this story responded to attempts to contact them; Google declined to comment on the profiles.

Adrian Joseph, Google’s London-based Head Of Search Advertising Solutions for Northern & Central Europe, who describes himself as a black belt in judo and cites table tennis and investing in fine wine among his interests, says on his LinkedIn profile that he has “responsibility for driving all Search advertising revenue.”

Jerome Beauguitte, a Senior Account Executive, said his role was to “develop a strategic client acquisition plan targeting top accounts in Europe … Identify and close enterprise and subscription-based sales opportunities.”

Peter Lorant, as Head of Channel Partners (EMEA), said he was “Responsible for channel revenue” and “Over-achieved New Business Quota in 2011 & 2012.”

“Very Salesy”

Johnson, the Google customer at Stickyeyes, said that “smaller spending clients” go through the Dublin call centre, but those spending more than 250,000 pounds a year receive dedicated support from Google representatives in the UK.
The culture is “very, very salesy,” he said. “Anything they’ve got new that they want you to spend more money on, it’s all about selling you their new products.”

Two former London-based sales staff also told Reuters the larger customers were dealt with by London.

Marcos Steverlynck worked as a sales and business development professional at Google in London from 2007 to 2011. He said the focus was on closing deals. “It could be either contacting potential partners directly or partners contact you and basically, negotiating the deals with them.”

When large, strategic deals had to be escalated for approval, they went to U.S. offices rather than to Ireland, said Steverlynck, who now runs an online art dealership. Google declined to comment on how decisions on big deals were handled.

**WHAT IS SELLING?**

Google’s practice of not reporting sales from UK clients to be assessed for income tax in Britain is based on the legal assumption that it does not have a taxable presence in the country, a “permanent establishment” known as a PE, lawyers and academics say. Tax lawyer Miles Dean, founder and partner of law firm Milestone, said the company can avoid having a taxable presence if all sales to UK clients are made directly with Google Ireland Ltd.

Google declined to say what its staff in Ireland do with contracts agreed with UK clients. When asked if they send out contracts to UK clients that have been agreed in principle by UK sales staff, Barron declined to comment.

A sales contract carrying the name of Google Ireland is not enough to ensure that Google Ireland has no taxable presence in the UK, said Angharad Miller, senior lecturer in tax at Bournemouth University, who worked for 13 years with large accounting firms before becoming an academic. “It can be enough (to establish a taxable presence) that the contract is in substance made in the UK,” she said. “If they’re closing deals (in the UK), they are living quite dangerously.”

Google declined to comment on what impact negotiating sales in the UK would have on its tax status.

Dean, the tax attorney, said it was impossible to tell whether Google’s activities were in line with the law without seeing the contract for services between Google Ireland and Google UK, but that negotiating deals could be problematic. “The best advice, in order to avoid a PE, is that negotiation can’t take place in the UK,” he said.

“Because the more of that decision-making process that you bring into the UK, that management process, and negotiation, is obviously of some relevance in the formation of contracts. That would generally be outside the scope of an agreement between the head office in Ireland and the UK subsidiary or the marketing company,” he added.

**EUROPE-WIDE ARRANGEMENT**

In France, the tax authority is investigating the company’s claim that its French unit conducts limited support activities on behalf of Google Ireland. A source close to
Google has confirmed news reports that France has demanded 1.7 billion euros in back taxes from the company on the grounds that it is really engaged in sales, not just marketing, in the country.

French tax officers raided Google’s Paris offices in 2011 on a “presumption of fraud”, according to court documents seen by Reuters and reported in French and international press. That was based in part on evidence including testimony from a Google customer who said advertising contracts came in Google Ireland’s name, but were processed by Google representatives in Paris and that he had only had contact with Google France employees. The French tax authority and Google declined to comment on the investigation.

The UK authority has taken a less aggressive approach to big international companies. HMRC declined to say when it last raided the premises of a multinational seeking evidence of tax avoidance or evasion.

Some lawmakers said they were surprised the UK tax authority has not yet challenged the structures used by internet companies such as Google to avoid paying taxes on profits earned from UK customers.

“HMRC has to be much more assertive and aggressive on behalf of the UK taxpayer to ensure that we really do get the proper tax back for the economic activity that takes place in this country,” Hodge said.

British Prime Minister David Cameron has responded to concern about corporate tax avoidance by saying he wants a change in international rules to ensure companies pay their fair share of tax. HMRC said it used a wide variety of information sources to ensure companies pay the right amount of tax.

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