Online Sales Tax Consultation – BRC Final Response

About the BRC

The BRC's purpose is to make a positive difference to the retail industry and the customers it serves, today and in the future.

Retail is an exciting, dynamic and diverse industry which is going through a period of profound change, accelerated by the pandemic. Consumer expectations continue to evolve and technology is enabling retailers to respond, changing how people shop; costs are increasing; and growth in consumer spending is slowing.

The BRC is committed to ensuring the industry thrives through this period of transformation. We tell the story of retail, work with our members to drive positive change and use our expertise and influence to create an economic and policy environment that enables retail businesses to thrive and consumers to benefit. Our membership comprises over 5,000 businesses, including physical retailers, online only and multi-channel retailers operating across both channels, delivering £180bn of retail sales and employing over one and half million employees.

Introduction

1. The industry is united in believing the rates system requires fundamental reform to reduce the burden for retailers. Evidence shows the significant impact of rates on shops across the UK, contributing to job losses and store closures and undermining the levelling up of communities. There is, however, a diversity of views within the retail industry – and BRC membership – on the concept of an online sales tax. This consultation response will set out the position on areas of alignment before responding to some of the questions below. In responding to the areas where there are differences of view we've aimed to be balanced and clear in describing the different perspectives.

2. To inform our response, the BRC conducted a series of roundtables with various groups across the membership and with other industry bodies. We also surveyed the CEOs of our members seeking views on the principle and the detail of some of the questions in the consultation. A summary of responses is included where relevant.

3. The industry welcomed the Government's announcement of a Fundamental Review of Business Rates, particularly the continued commitment to the Review during the pandemic. However, the outcomes of the Review were inadequate. Notwithstanding some positive reforms, including the move to more frequent revaluations, the Review failed to resolve the core issue of a tax that was disproportionately burdensome on retail and unresponsive to underlying market conditions. The relief during the pandemic was vital and saved businesses and jobs but was understandably temporary. The further relief announced in the Budget is also temporary and focused on smaller ratepayers. Therefore, the Review failed the first requirement of its terms of reference, i.e. to reduce the burden of rates on business.

4. This outcome was extremely disappointing, with particularly far-reaching implications for the locations most in need of levelling up. The failure to meaningfully reduce the burden of Business Rates comes at a time when many of these locations are seeing extremely high

vacancy levels. At the same time, although the UK is emerging from the pandemic, the BRC is conscious that other economic challenges are creating significant headwinds to dampen economic growth. Increases in the cost of living regarding energy costs, tax rises and other inflationary pressures continue to keep the trading environment uncertain for many retailers.

5. Insofar as the economy is able to weather these storms and continue to grow, the recovery will be significantly powered by consumer demand. Government policy should therefore act to facilitate and enable that demand. A reduction in business rates would be a powerful tool to address the cost of living crisis.

The transformation of retail and the burden of business rates

6. The retail industry is overtaxed. It represents approximately 5% of the UK economy by Gross Value Added (GVA) but pays approximately 10% of business taxes and 25% of business rates. This over-taxation relative to other industries has been driven in recent years by the inexorable rise in business rates, the multiplier for which in England has risen from 34.8p in 1990 to 51.2p in 2022 (for larger businesses). This is a 50% rise in the tax rate over 30 years – an unsustainable increase in the cost of occupying property. As the burden of business rates falls most heavily on shops, it is clear that this over-taxation has a harmful impact on store viability. A recent BRC survey of major retailers showed that 83% said they are likely or certain to close stores unless the burden of business rates is reduced. It also found that Business Rates had had a material impact in two thirds of store closures over the last two years.

7. Before the pandemic, online sales made up nearly 20% of all retail spending in the UK. This rose for obvious reasons during the pandemic, reaching a peak of 38% in early 2021. Growth in online sales was seen both by individual companies and across different categories of goods. This increase was particularly striking in grocery/food shopping, where online sales accounted for 5% of all food sales before the pandemic and rose to a peak of 13% in 2021 due to a combination of the non-discretionary nature of this category and technology fulfilment advances that made online grocery shopping more accessible to a wider demographic. As trading restrictions for retail and hospitality have reduced across the UK since April 2021, there has been some reversion to pre-pandemic shopping habits, and therefore a natural deceleration in online sales growth. However, the overall share of retail sales that are online remains higher than pre-pandemic, currently around 30% of total sales. Clearly some consumer behaviours have changed for at least the foreseeable future, if not permanently.

8. Growing numbers of retailers are now operating across both online and physical channels and many see omnichannel as the future. For these companies, customer journeys frequently use both online and offline, often as part of the same transaction, with the channels becoming increasingly interconnected. Others, however, continue to operate across individual channels and the majority of retail sales are still made through physical shops.

9. Many consider that this shift towards omnichannel retailing is having an impact on high streets, with the proportion of vacant retail units increasing before the pandemic started. The two primary factors for this are the change in consumer shopping habits as well as the historically high level of business rates on shops. Other factors also have an impact, including poor planning decisions, lack of local investment, inadequate or expensive parking and poor

public transport. However, it is not possible to attribute precise cause-and-effect between each of these.

10. Notwithstanding this retail transformation, retailers are clear that there will always be a role for retail in high streets and town centres, retail parks, shopping centres and other locations. The return of customers to shops after lockdown, whilst still not at 2019 levels, shows a clear continuing public desire to experience retail in person as well as digitally.

11. A viable retail industry supports the sustainability of communities. For many locations, retail will remain a core activity even as the industry transforms. A tax framework that supports this therefore provides broader social as well as economic benefits. The continued presence and vitality of retail in local high streets, town centres, shopping centres and retail parks provides the opportunity to realise a shared vision of new homes, modern agile co-working spaces, culture and entertainment venues, care and wellbeing as well as with retail remaining a creator of local, flexible jobs particularly for young people often with no qualifications. At the same time, as recognised in the High Street strategy, growth in online retailing has also created new types of jobs in key locations, focused on digital, fulfilment and logistics. It has also brought new choice and convenience for consumers.

12. The tax framework should act to support retail's continued role providing jobs and services to communities across the UK, and not undermine it.

13. The Fundamental Review of Business Rates failed to deliver the far reaching reform to modernise the existing system which is so urgently needed. While there were some positive reforms to emerge, they did not result in a significant reduction in the tax burden – particularly on the retail industry – and so the problem of business rates continues despite the review. The BRC understands that Government appetite for further reform will be limited in the short term given that the Fundamental Review has concluded. However, without government action we will see continuing unnecessary job losses and store closures, particularly in the most deprived areas of England, and the shared vision for thriving high streets and towns will not be realised. Existing analysis shows the burden of business rates is higher on areas in need of levelling up and that these areas also face the highest high street vacancy rates.

14. Despite the move to three-yearly revaluations, which the industry supports, the business rates system remains insufficiently responsive to market conditions. The two-year gap between the antecedent valuation date (AVD) and the start of the new list in England means that rates will still reflect rents that are up to five years old. The issue of long periods between revaluations has been made worse in recent years with extended periods between revaluations so that they have been six or even seven years long, instead of five. These issues are compounded by the failure of the appeals system to provide effective and timely resolution of valuation disputes.

15. It is welcome that the Government is open to shortening the gap between valuations and the start of a new list and must continue to work towards that objective. However, where property values fall or rise significantly during this five-year period (between the AVD and the end of the following list) there must be more focus on relief for affected ratepayers. The Government must also continue to support the investment in the Valuation Office to enable more frequent revaluations than three years should there be ratepayer support for this in the future.

16. Transitional relief compounds the impact of business rates as a lagging indicator of values by staggering decreases in business rates following revaluations. This means that, even after a new list with more current valuations takes effect, the ‘true’ level of business rates still isn’t paid, potentially during the whole lifetime of the list. Reform of transitional relief is vital to allow ratepayers to pay less where a revaluation determines that they should.

17. Even when a revaluation occurs, and even if transitional relief operates in a way as to allow a ratepayer to pay their ‘true’ level of business rates, the requirement of the business rates system to be self-financing means that there is a risk that the multiplier will rise and therefore mitigate the benefit of a reduction in rates. Business rates must be reformed to remove this unique and anachronistic feature of the system so that falls in rateable liability do not require a corresponding increase in the multiplier. While some analysis suggests that the 2023 ratings list in England will result in retail paying a smaller total share of business rates, a system that offsets that reflection of market values through transitional relief and an increased multiplier still acts against the principles of taxation that the Treasury itself has set out.

18. Therefore, notwithstanding the outcome of this consultation, the industry is aligned believing that Government should: deliver on its rates consultation and manifesto commitments to reduce the overall burden of rates; reduce the amount raised from retail and make the system more responsive to changes in the underlying market, thereby supporting high streets and communities across the UK. In summary, Government should focus on substantively reducing the multiplier, initially making the freezing of increases to the multiplier permanent, accelerate plans for more regular valuations and remove downwards transitional relief.

Retailer views on an online sales tax & BRC member survey

19. While the retail industry is united in calling for business rates to be reduced, there are a number of different views across the industry on the concept of an online sales tax.

20. The BRC surveyed its members on both the principle of on an online sales tax as well as some of the design questions posed in the consultation. Retailers of different sizes and business models responded to the survey from a range of sub-sectors. The results have not been weighted or assessed to be representative but are intended to be indicative of the cross section of views across the industry.

21. The growing importance of online sales is clear from the survey. One third (33%) of respondents currently have more than half their sales online. In three years’ time 47% of respondents expect online transactions to account for more than half their total sales, rising to 62% in five years’ time.

22. The survey asked respondents whether they supported or opposed the concept of an online sales tax, or whether ‘it depends’. There was no majority view. While a higher proportion of respondents opposed the concept of an online tax, nearly 1 in 5 said it depends, with reasons given both supporting and opposing the concept. How the “it depends” is interpreted could give rise to a small majority one way or the other. So rather than include the results of this question which would indicate a false sense of precision, we conclude that respondents are broadly split on their sentiment towards an online sales tax. Within this there is a wide spectrum of different views across a continuum from strongly supportive to strongly opposed. Results of other questions are included to give an indicative sense of

strength of support or opposition to the various concepts outlined in the consultation, as they are generally less finely balanced.

23. For those supporting the concept of an online sales tax, the most common reasons cited (of a set list) were to 'modernise the tax treatment of retail activity', to 'improve the economics of store-based retail' (both expressed by 84% of respondents to the question) and 'to rebalance the tax burden across the industry' (79% of respondents). These retailers believe it is technically feasible to introduce an online sales tax and that any complexities can be resolved.

24. For these respondents, online retail does not compete on a 'level playing field' with store-based retail due to the relative differences in property taxation. Rents, and therefore business rates, in high street and town centre locations are considerably higher (in most cases) than for warehouses, where many online orders are fulfilled. For those retailers that are solely online, this differential will be even greater, and property costs will be significantly lower than for retailers with a higher degree of store-based retailing. They argued that this cost difference allows 'pure play' retailers to offer products at lower prices than those selling the same products from stores.

25. Like a number of those who responded 'depends', other respondents who supported an online tax were clear that this was in exchange for a reduction in store-based business rates. Parity of operating costs was not supported through making online retail operations as expensive as store-based retail is currently, but rather by increasing the cost of online sales and specifically directing that revenue to reduce the operating cost of store-based retail. Some respondents also considered that making stores more viable would in turn help regenerate high streets, town centres and other store-based shopping locations such as shopping centres and out-of-town retail parks, supporting wider community sustainable development.

26. For those who did not support the concept of an online sales tax, the most common reasons cited (of a set list) were that it would 'add to the tax burden' (87% of respondents to the question), that it was 'too difficult to differentiate between what was an online sale and what was not' (82%), and that 'other sources of offsetting revenue should be found instead' (70%).

27. For these respondents, there was scepticism that all the revenue of an online sales tax would go into reducing business rates for their business, or that an online sales tax would be set a level that amounted to a lower cost than the benefit of the associated rates reduction. There was doubt that the concept would be of benefit to their business or the industry more widely and would likely add to the tax burden over time. There was also concern expressed about the potential for passthrough of the tax to consumers at a time when cost of living is already rising. Some also noted that online fulfilment has different cost structures, for example associated with delivery and return.

28. For other respondents who did not support the concept of an online sales tax, there was a substantial concern that the complexity of defining the scope of online sales made the tax impractical, particularly as omnichannel retailing continues to evolve. Their view was that it would add further complications to an already complex tax system and create new burdens on businesses and consumers still recovering from the impact of the pandemic. Some respondents also considered that other sources of tax revenue should be found to offset business rates, whether an increase in VAT or further rises in Corporation Tax. Others

suggested that the Fundamental review of Business Rates did not 'fix' the problems with the system, and that different reforms were needed beyond an online sales tax. It was proposed that the business rates system itself could be used to redistribute the burden within retail or across industries by applying an inflator or deflator to different types of properties and if this redistribution was the objective of government, then there were administratively easier ways to achieve it.

29. Of those saying 'it depends', a range of different considerations were identified demonstrating a spectrum of views. A number of respondents said that, similar to those who were supportive, the dependency was that any revenue from an online sales tax was used to offset business rates and that the overall net tax burden decreased or at least did not rise as a result of an online sales tax. Others said that Business Rates should be replaced rather than a new tax on retail being introduced. Additional responses highlighted that any new tax can be complex to introduce and subjective to apply and that other easier avenues might exist. The importance of avoiding duplication resulting from measures being considered by the OECD was also noted and, separately, avoiding a solution which acts to disincentivise growth and innovation.

Next steps

30. The Treasury's consultation seeks detailed views across a range of areas in relation to a potential online sales tax. Many members, both for and against such a tax, have expressed the view that it has been hard to engage fully with the consultation as the detail of any proposed tax has been lacking. This has made assessments of the impact both for businesses and consumers particularly challenging.

31. If, following this consultation, Ministers decide to proceed with an online sales tax, a further consultation on any specific design that is proposed would be essential. It would be vital for Government to receive specific industry feedback to ensure that any new tax can be designed and implemented fairly, effectively, predictably and sustainably as possible, with sufficient time for businesses to prepare, in line with the Government's principles for fair taxation.

32. The BRC would also like a consultation on the specific design of any consequential business rates relief that is proposed. It is impossible to assess the implications of a new tax if there is no certainty as to the nature of the benefit. The failure to include details in this consultation of the resulting relief has been identified by a range of retailers as a significant limitation of the consultation, which prevents respondents from reaching a clear view on the desirability and design of any new approach. A further area of uncertainty relates to the approach of the Devolved Governments – as a devolved matter, clarity would be needed about the resulting approach in Scotland, Wales and Northern Ireland.

33. In the BRC's survey, a number of points were made that signal the range of considerations that Government will need to take into account when coming to a view on the design of any business rates relief that flows from an online sales tax. Many respondents were clear that: any revenue derived from an online sales tax must be used to offset rates; that this relief should be focused on retail shop properties; and that it should reduce the multiplier rather than be a relief that must be applied for. Many respondents were also of the view that any benefit should apply equally to larger retailers as well as to smaller ones, noting the importance of larger retailers as anchor stores and large employers.

BRC response to consultation questions

Question 1: Would you favour a tax for all 'remote' sales or just a subset of 'online' sales?

- The consultation is right to note that any definition must be transparent and easily understood and that it would also need to have a consistent impact on different business operating models selling via the same channels to minimise market distortions. Some believe that an online sales tax can be introduced without being overly complicated, others have concerns that complexity will be difficult to avoid
- A remote sale isn't necessarily an online sale (e.g. made by phone), and an online sale isn't necessarily a remote sale (e.g. buying a coffee via an app whilst in the coffee shop)
- It is not immediately clear how a sale made in-store using a retailer's own terminal linked to the internet, for example, might be classified
- The BRC asked members what channels should be in scope should a form of online sales tax be introduced. There was strong alignment across 80% of the respondents to the survey that answered the question, with respective levels of support for the channels below:

    - Sales transacted online and delivered to customer – 93% (of those responding to the question)
    - Sales transacted through a 3rd party sales platform and delivered to customer – 93%
    - Sales transacted through a 3rd party delivery platform, e.g. takeaway/grocery deliveries – 79%
    - Sales transacted via telephone, post or through an app - 67%
    - Click and collect sales – 28% of those who responded

Question 2: How should taxable sales be defined and what would the practical implications be?

- The principles applied should reflect the Government's own principles of good taxation: sustainable, applied fairly, simple, clear, predictable
- The BRC surveyed member CEOs, who expressed differing views on what should constitute an online sale. 76% of those surveyed agreed that Business to Consumer (B2C) sales of goods should fall within scope of an online sales tax were one to be introduced. The following share of respondents considered that the sales that should be in-scope of an online sales tax if it were to be introduced were:

    - B2C sales of digital goods to consumers (e.g. e-books) – 66%
    - B2C sales of services connected to the sale of goods (e.g. delivery costs) – 41%
    - B2C sales of services unconnected to the sale of goods – 41%
    - B2B sales of goods – 37%
    - B2B sales of services – 31%

Question 3: Are there transactions that would be particularly difficult to classify as either online or remote? What are these, and how should these be addressed?

- It may be straightforward to conceive what a 'typical' online sale is: a person in a different location to the shop or warehouse making a purchase over the internet that is then delivered to a specified location
- However, simplicity is vital. A person buying an item in a store using the retailer's in-store tablet and picking up the item at that location two days later might attract a different tax to

the same purchase being made on their phone standing inside the store and having the item delivered to their home – there is scope for customer and merchant confusion
- Some retailers tell the BRC that they already record online and offline sales differently and that they believe that they could amend their internal systems to record different types of sale as necessary. They say they are clearly able to differentiate sales, given their role managing complex retail businesses across multiple channels – the example of different VAT rates for different products has been cited as an example of this ability
- Other retailers say that some of the potential definitions of an online sale are not ones that they would readily be able to identify, given the shopping journey of their customers involving more than one channel and that there is very little consistency between retailers of similar transactions. They express concern that complexity would result
- More detail would be required on the specifics to enable a proper assessment

Question 4: Should click and collect be exempted? If so, how?

- Over 70% of respondents considered that click and collect should be exempted from the scope of any new tax. Some argued that otherwise the sale would in effect be double-taxed through the store paying business rates as well as the sale attracting an online sales tax
- A click and collect sale is one that is transacted online and where the product is collected at a different location, whether that is the retailer's own store or some other location such as a locker, a convenience store or even another retailer
- Click and collect sales are expected to grow in the coming years as a proportion of online sales
- Two thirds (65%) of our survey respondents said that *fewer* than 10% of their online sales were click and collect today. Only 7% of respondents said that click and collect sales accounted for more than half of their total online sales
- However, in five years' time 60% of respondents expect click and collect to account for *more* than 10% of online sales, and 16% expect click and collect to account for more than half of their online sales
- Different businesses use click and collect in different ways, either in-store, lockers or third party retailers

Question 5: Should an OST be applied to all goods? Are any exemptions necessary? If so, what are these and why?

- A number of respondents to the BRC's survey sought to elaborate on what items should be in-scope of an online sales tax were one to be introduced, reflecting the diversity of views on this question. Comments included:
    - All online sales of everything should be in-scope for reasons of simplicity
    - Only deliveries from distribution centres, not stores, should be in-scope
    - All companies should have an "online tax" line and relevant %-age on their transaction page to support transparency between different businesses
    - Exempt click and collect where collected at a store so that stores aren't effectively taxed twice (once through business rates and once through an online sales tax) and exempt click and collect where goods are collected at other physical premises e.g. a locker, a convenience store or even another retailer
    - Similarly, exempt food deliveries from restaurants so that they aren't taxed twice
    - Government should consider a charge on delivery of parcels to homes

- Government should consider if 0% VAT items, including food and medicines, need exemption
- An online sales tax should be aligned to environmental impact to support the net zero target
- Any online sales tax should be levied on any good or service that was at any point available to purchase in a shop (e.g. a flight ticket)
- All forms of sales that compete with physical store sales would contribute tax revenue (e.g. a digital newspaper v. corner shop newspaper sale, a mail order T-shirt purchase v. high sale T-shirt sale), not just one sub-section (internet sales of goods)
- Government should exclude online transactions facilitating a physical sale e.g. booking an appointment online

Question 6: How would a goods-only approach apply to takeaway food?

- The logic of a goods-only approach would be for it to apply only to the value of the food being sold and not any delivery or service charges added on to this.
- There would be some administrative burden for the retailer or delivery business disentangling the value of the good and the value of the service unless the customer price was used

Question 7: Do you think that digital products should be included in an OST? How should a "digital product" be defined?

- A digital product is one that can be downloaded or accessed online. The logic is that if the online sale of a book or physical video game is taxed, then the digital equivalent should also be taxed for consistency and to minimise market distortions
- See question 2 for survey responses
- The question is whether all downloads should therefore be taxed, even where no physical equivalent exists (e.g. an e-book that has no print editions)

Question 8: How can the risk of value shifting from goods to services be reduced, for an OST that has services out of scope?

- It is for the Treasury to assess the risk of value shifting

Question 9: Are there other ways you could foresee OST being avoided? How could this be defended against?

- This would surely depend on the design of any tax. Ensuring compliance for overseas businesses might require particular focus. This was a particular priority for a number of respondents who noted the losses to the UK Exchequer from online VAT fraud.

Question 10: Do you think some or all categories of services listed above (including any digital services) should be included in the scope of an OST? Would you add any additional services?

- Any definition of scope in terms of the categories of services listed requires care to avoid inconsistencies. For example, if only things with no digital equivalents should be taxed, then a TV sale would be taxable but not the insurance or service guarantee that comes with it.

Question 11: To what extent do businesses currently distinguish between their sales of goods and services in business systems? On what basis do they currently make this distinction?

- Individual businesses would be better placed setting out how they make the distinction

Question 12: Do you agree that an OST should be designed to exclude B2B sales?
And
Question 13: Do you agree that an approach of removing all B2B transactions from scope would be preferable to applying the tax according to the individual transactions (e.g. according to the use of the item sold)?

- There is a range of views across the retail industry on this issue. As illustrated by the answer to question 2, of those respondents to the BRC's survey who answered the question, a majority were in favour of applying an online sales tax to B2C sales of goods and services. However, 36% and 31% of respondents were in favour of applying an online sales tax to B2B sales of goods and services respectively.
- It is not clear whether this indicates a preference for removing B2B transactions from scope over applying an online sales tax according to individual transactions, but there was less support for including B2B transactions than for other types of transaction
- Concerns were highlighted by some respondents about the ease of consistently distinguishing whether a transaction is for business purposes.

Question 14: What is your preference from the above or any alternative approaches to exclude B2B sales from an OST while limiting administrative burdens on business?

- Were B2B transactions to be within scope, Government would need to ensure that the definition of B2B transactions was clear and consistent with approaches taken in other areas of business taxation wherever possible

Question 15: How do you think a business should be defined for the purposes of an OST?

- There are different ways in which a business could be defined, as the consultation points out. It could be by the type of customer, by whether it is registered for VAT, or by the nature of its business
- Any definition should be consistent with approaches taken in other areas of business taxation

Question 16: Are there other types of entities or transaction types which should be out of scope of an OST e.g. online sales by charities, public bodies or consumer to consumer transactions?

- Excluding some entities, such as charities, could be positive from a public policy perspective
- However, it would be challenging to exclude charity shops, for example, from business rates definitions of retail as they do not have specific 'SCat codes' within local authority rates systems
- An overarching principle should be that entities should not fall outside the the scope of any tax whilst still benefiting from any commensurate rates relief

Question 17: Do you agree that an OST would be levied on vendors?

- It is not possible to answer this question without detail of the nature of any such tax

Question 18: How should different intermediaries that sell online on behalf of other businesses be treated with respect to an OST i.e. online marketplaces, franchises, auctioneers, agents and commissionaires?

- This is extremely complex as there are a variety of business models included in this question
- Potential administrative burden on individual franchises/small businesses selling through large platforms

Question 19: Are there situations in which it is not possible to distinguish the vendor from the intermediary, or in which the intermediary plays a crucial role in the sale? How should these be treated?

- Individual businesses are better placed to set out when it is and isn't possible to distinguish vendors from intermediaries

Question 20: Are there circumstances in which it would be appropriate for an intermediary to be liable for an OST, rather than the underlying seller? What are these?

- If an online sales tax is in place, it should apply to any online sale regardless of where the vendor is located in order not to disadvantage UK-based retailers versus overseas-based ones. Many consider it very difficult to see how an intermediary could be made liable without complex and burdensome arrangements

Question 21: How would an OST define UK customers?

- The consultation notes that one way to identify a UK customer would be by whether the address to which a good is being sent is in the UK
- However, if the purchase is an e-product then it is harder to confirm that the purchaser is in the UK
- This could be mitigated by determining the address connected to any card used for the purchase
- This is more complicated where the purchase is via something like Apple Pay, for example – the vendor would need to communicate with Apple Pay to determine where the purchaser is based – this would need to be in accordance with data protection requirements
- Clarity about whether this is defined by the delivery address or the address connected to any payment method would be key
- Utilisation of existing VAT approaches might assist in clear definition

Question 22: Should UK-based intermediaries play a role in identifying taxable transactions or be made liable in some cases?

- The overarching principle should be that all appropriate sales are captured, in the most cost effective and administratively easy way

Question 23: Would either a revenue or a flat fee approach have a greater distortive impact on consumer behaviour? What are the scope and design considerations that would lead to distortion caused by both models?

- Of BRC members surveyed, 55% preferred a revenue-based over a flat fee approach were an online sales tax to be introduced
- A flat fee approach potentially discriminates against smaller value purchases
- As a revenue based model would tax top line earnings rather than profits, challenges would result for less profitable businesses

Question 24: Would either approach be particularly preferable? If so, why? Are there any preferences around scope (i.e. different exclusions or exemptions) which would make one of the approaches more preferable?

- See answer to Q23

Question 25: Do you have experience to share of overseas' taxes on online sales using either model, or similar approaches not covered above?

- We are not aware of any other online sales taxes along the lines of that proposed by the consultation being applied overseas
- Some respondents observed that the absence of overseas equivalents would disadvantage UK businesses operating internationally

Question 26: What factors should be taken into consideration in setting an allowance? How would this differ for revenue and flat-fee models of an OST?

- An OST levied on very small businesses with minimal turnover could be disproportionately administratively burdensome
- There are strong arguments in principle for an allowance.
- The higher any allowance is set, the smaller the pool of businesses that would pay an OST. However, rates relief would not discriminate between businesses by turnover (except insofar as RV is a proxy for business profitability) and so the higher any allowance is, the greater the potential discrepancy between those businesses paying the tax and those businesses benefiting from relief
- Individual businesses will have their own views as to how high this allowance should be set

Question 27: What would be a reasonable OST threshold and allowance to set in order to protect small businesses while also making sure the OST generates sufficient tax revenues?

- In order to calculate what a reasonable threshold might be, it is necessary to consider the costs of administering an OST against turnover
- It is not possible to estimate costs before having an idea of the structure of the tax
- Small businesses are more likely to occupy smaller properties that are more likely to be exempt from business rates

Question 28: Do you agree that an OST threshold or allowance should apply once to all businesses under common control?

- The BRC does not propose to answer this question

Question 29: Do you agree the threshold or allowance would apply to individual businesses when they operate franchises or sell through online marketplaces?

- Where possible definitions and processes should be consistent with approaches taken in other areas of business taxation and mitigate any risk of double taxation

Question 30: Do you consider there to be strong arguments either for or against quarterly or annual reporting? If this hinges on any of the design options laid out in this consultation, please specify which options and why.

- Using VAT as the model seems appropriate were an online sales tax to be introduced
- A new tax would require new business processes depending on the design of any tax, eg: identification of sales of goods vs services (where supply is mixed); online sales vs other channels; sales made by remote means vs in-store; identification of click and collect; identification of B2B vs B2C sales
- Where possible definitions and processes should be consistent with approaches taken in other areas of business taxation

Question 31: Can you provide insight into the overall burden to administer all systems and processes required to support an OST? Do systems currently allow you to identify the features listed above; if so, please provide further details on how this distinction can be made.

- It would depend on the design of the tax, its linkage with existing definitions, processes, and systems
- In some respects, smaller businesses might be impacted more than larger businesses. However, larger businesses may require more extensive systems to manage the treatment of wider product ranges
- Retail is a highly competitive sector and industry profit margins have been reducing over time, and any new tax should not reduce them further. Current and planned increases, such as for National Insurance Contributions and Corporation Tax, will add to this pressure

Question 32: On balance, what would the impact be of an OST with business rates reductions on the scale described above, including on retailers that operate both online and offline?

- Some companies/trade bodies from industries outside retail believe they should benefit from a business rate reduction and support the concept of an online sales tax, but do not believe that they should be within the scope of any such tax
- The rates relief should be focused on the retail industry rather than other businesses which might pay business rates – anything else would only worsen the relative over-taxation of the retail industry compared to other industries. A system that taxed all retailers, but only provided relief to a small sub-set would not be supported. This would result in a net increase in taxes on retail, break the Government's commitment to lowering the burden, and would exacerbate the potential impacts for community stores and jobs
- The impact will be felt differently on each business depending on the scale of online sales, number and location of stores, and relevance of any thresholds and other details of the final design and rate
- As noted previously, some retailers believe that an online sales tax would stifle innovation, impose new administrative burdens and introduce new market distortions

Question 33: Do the potential revenues from such a tax justify the additional administration that it would require of businesses, as well as the design complexities detailed in the previous sections?

- This would depend on the position of each business in terms of number and location of stores and share of online sales
- From an industry perspective, proponents of the concept of an online sales tax believe it is worth this burden, while those that oppose it believe it is not justifiable

Question 34: To what extent do you think an OST would impact innovation, efficiency and productivity?

- The extent to which it would impact depends on the design of the tax

Question 35: To what extend do you believe that an OST would impact consumers' behaviour in favour of in-store retail?

- This would depend on the design and rate of any new tax, the value of purchases and its visibility to the consumer
- Today, while many retailers operate dynamic pricing to respond to market conditions, most multi-channel retailers do not differentiate pricing between different channels (other than for delivery charges)

Question 36: How do you expect online retail to evolve in the coming decade and how should an OST take account of these?

- We have specified above the ongoing growth expected in online retail sales
- Any new taxes, if implemented, must link to a corresponding reduction in rates and not add to net overall tax burden taxation of industry

Question 37: What is the evidence for the degree of pass-through of the cost of an OST to consumers? To what extent will this vary depending on the type and value of the goods sold?

- Retail is a low margin business and all taxes are ultimately borne by the consumer
- Individual pricing decisions by retailers will take into account a wide range of market conditions, competitor activity as well as costs and taxes
- Some companies have provided research in this area which presents evidence of their assessment
- Different tax designs may influence the likelihood of direct pass through of taxation

Question 38: Do you have any data which would support the Government in making an assessment of the incidence of the tax or its distributional impacts?

- We do not have any such data as it would depend on the design and rate of any tax
- We have specified above the ongoing growth expected in online retail sales

Question 39: In your assessment, what would be the distributional impact of an OST? Are there particular groups who are likely to be worse affected than others? How would this change if an OST were applied as a flat-fee per transaction (or some other similar metric) versus a percentage of firms' revenue from online sales?

- This would vary significantly depending on the structure and rate of any tax

Question 40: What environmental impact might an OST have? How would its design affect an OST's environmental impact?

- It depends on the rate and structure of any tax
- More widely there is insufficient Government prioritisation to amending the tax system to incentivise environmentally beneficial behaviours