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October 21, 2015 12:30 pm

Starbucks and Fiat told to pay up to €30m in tax after EU ruling

Christian Oliver, Jim Brunsden in Brussels and Daniel Thomas in London

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Fiat and Starbucks must each pay up to €30m in tax repayments after Margrethe Vestager, EU competition commissioner, opened a significant new front in the battle against tax avoidance by multinationals.

Ms Vestager said on Wednesday that the Netherlands acted illegally by offering a sweetheart tax deal to Starbucks, while Luxembourg did the same for Fiat.

While she held fire on reaching a decision in relation to Apple in Ireland and Amazon in Luxembourg, Ms Vestager's rulings are an attempt to forge an important legal precedent. The commissioner is seeking to establish that deals handed by EU governments to large companies to reduce their tax bills can constitute unlawful state aid.

This means that European governments have effectively been offering illegal subsidies, which must be clawed back, possibly in hundreds or thousands of cases.

Commission officials admitted that they did not have the resources to police all of Europe's tax rulings, but Ms Vestager said that she expected the practice to stop immediately.

"I expect tax rulings to be 'by the book' and that they do not contain state aid," she said, laying down a marker of intent. "I believe that we need a more fundamental shift in corporate philosophies. If it isn't part of it already, paying one's fair share of tax should be firmly integrated in a company's corporate social responsibility."

Ms Vestager stressed that the creation of a legal framework was more important than any financial penalties. These are relatively modest — between €20m and €30m — because the cases focus on two relatively small units: Starbucks Manufacturing BV and Fiat Chrysler Finance Europe.

However, many lawyers expect the sums involved in Apple's case could be far bigger, and possibly run to billions of euros.

Both the Dutch and Luxembourgish government rejected the rulings although they did not immediately say whether they would appeal against them to the European courts. Fiat also said that it had not received any state aid, while Starbucks said that it would appeal against the European Commission.

At heart, state aid cases hinge on whether companies have received "selective" benefits thanks to tax deals — nicknamed comfort letters — that other companies would not have received.

In the case of Starbucks, the commission condemned the Netherlands for allowing the coffee roaster to reallocate a large slice of its profit and attribute it elsewhere internally in the form of royalty payments. The essence of the Dutch government's defence is that much of Starbucks' profit derives from its brand value and other intellectual property such as recipes, which are not created within the Netherlands.

However, the commission decided on Wednesday that these internal royalty payments were unacceptable because other roasters could not use the same strategy to reduce taxable profit. The commission also said that Starbucks was inflating its costs internally by marking up the prices of coffee beans imported from Switzerland, making them cheaper than those available to competitors.

In an immediate sign of the potential legal showdowns to come, Starbucks immediately rejected Ms Vestager's methodology, saying: "The European Commission wrongly asserts that independent third parties which roast coffee beans for Starbucks do not pay equivalent royalties as our own roasting plant in Amsterdam. This is false."

In the Fiat case, the commission argues that the company's financial arm kept its tax low by putting an artificially low value on its capital. Fiat says there was no question of preferential treatment.

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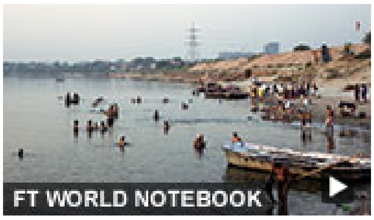

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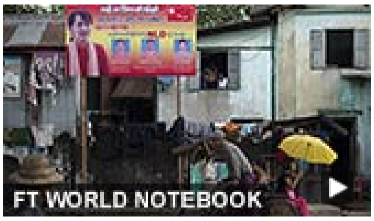

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