



EUROPEAN POLICY BRIEF



GLOBAL RE-ORDERING: EVOLUTION THROUGH EUROPEAN NETWORKS

Activating Networks on Taxation: Issue Entrepreneurs and Policy Catalyzation

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INTRODUCTION : EUROPEAN NETWORKS AND ACCELERATED POLICY DEVELOPMENT

Launching a European Commission communication in June 2012, Algirdas Šemeta, European Commissioner for Taxation and Customs Union, Audit and Anti-Fraud, laid open ambitious intentions:

‘Let there be no illusion: tax evaders steal from the pockets of ordinary citizens and deprive Member States of much-needed revenue. If we want fair and efficient tax systems, we must stamp out this activity. The political will to intensify the battle is there. Now it is time to translate that into action’.

In this context, policies aimed at redressing the widely perceived detrimental impact of cross border tax evasion and avoidance underwent an on-going process of accelerated development. The 2013 Lough Erne G8 leader’s communique crystallised this shift stating, ‘we commit to playing our part in developing global solutions to the problems of tax evasion and tax avoidance’, calling on the OECD to develop a common template for country-by-country reporting and committing to a global standard for automatic information exchange. With progress on the OECD Base Erosion and Profit Shifting (BEPS 2013) initiative, Europe is addressing a record of impotence on direct taxation and may transcend the severe collective action problem that has dogged efforts in this area to date.

Member state heterogeneity places in tension multiple and often opposed interests and European membership incorporates numerous states which can be understood to follow an offshore strategy; the EU itself is host to the largest tax evasion and avoidance industry in the world. If we include EU member states dependencies, the proportion of the world tax havens hosted by the EU rises to approximately 60%. However, given the fiscal emaciation of many European states in the wake of the global financial crisis and the uncomfortable contrast too easily drawn between on one side, widespread and deep austerity and, on the other, revelations of systematic elite and corporate shirking on taxation the EU has begun to act. Not only have leading member states signed inter-

governmental agreements with the US to facilitate the internationalization of the 2010 Foreign Account Taxation Compliance Act, which target US citizens with foreign banks accounts, but the EU policy armory on taxation has been significantly reinforced.

The European Savings Tax Directive has been superseded by the 2011 Directive on Administrative Cooperation in the Field of Taxation. This mandates the Commission to widen the categories of income that member states must automatically exchange information on beyond interest payments, and tightened procedures for doing so, rendering the EU regime potentially compatible with FATCA requirements. Amendments to the Mutual Assistance Directive reinforce the trajectory. A Most Favoured Nation (MFN) clause obliges member states to provide another member state the level of cooperation they have accepted in relation to a third party. Second, it prohibits the reliance on bank secrecy for non-residents in a refusal to supply information on a taxpayer. Third, if any EU member becomes a FATCA partner country, as has Luxembourg, all EU members will be empowered to demand the same treatment as that afforded US authorities. 'Son of FATCA' agreements, signed between member states and non-EU member jurisdictions raise the spectre of MFN claims reaching beyond the boundaries of the EU. Jersey, Guernsey, the Isle of Man, Switzerland and the Cayman Islands signed agreements with the United Kingdom between December 2012 and April 2013. In October 2014 the 28 member states of the EU reached a political agreement to implement the newly minted OECD Common Reporting Standard. This requires jurisdictions obtain information from their financial institutions and automatically exchange that information with other jurisdictions annually.

In short, the agenda for global tax reform has recently gone through a significant and profound shift that is changing transnational regulatory interaction and content. While tax policy has largely been understood to be an enclosed policy preserve of private sector experts, technocrats and state agencies, at the forefront of the drive to implement new policies were civil society actors and nongovernmental organizations (NGOs) pushing the issue through transnational advocacy networks (TANs). Amidst an NGO 'scramble' to take the mantle on tax justice issues, the UK-based Tax Justice Network (TJN) emerged as the specialists, widely recognised as knowing best on tax issues. Established in 2003, TJN is a key actor on global tax justice issues and strongly influential in defining campaign issues, targets, accounting metrics, and policy content for the wider NGO community. This Policy Brief provides a framework for understanding how issue entrepreneurs operate in TANs through 'identity switching' and professional mobilization. We outline how issue entrepreneurs switch identities between different professional 'network domains', and how identity switching is critical for accessing and activating advocacy strategies on technically complex issues.

ACTIVATING NETWORKS IN THE FACE OF COMPLEXITY

Explaining the rise of global tax justice activism in TANs provides a puzzle given the high level of issue complexity. NGOs might be expected to target issues carrying brute moral or ready emotive content. NGOs able to provide leadership in TANs might be expected to be large and heavily resourced. The issue of taxation is technically complex and opaque to most. TJN is a tiny organization with resources that pale in significance when compared to more established NGOs. We explain activation within TANS and issue leadership as a consequence of strategies from issue entrepreneurs who engage in 'identity switching' as a form of professional mobilization. Identity switching permits specific strategies. These strategies draw upon a capacity to access professional and policy arenas from a footing in a particular domain and then to activate a plan of action intended for a different audience. This is identity switching between different 'network domains', between different networks of individuals and organizations that belong to a particular identity and includes the corporate, policy, scientific and activist domains.

We also suggest that professional experience more than professionalization is an important part of campaigning on global tax justice. This is because professional experience and skills are vital to understanding the complex technical issues surrounding tax policy, but cannot remain within a professional community if the issue is to gain public support. On tax justice issues the NGO or TAN

involved requires cross cutting expertise in law, accounting, tax, economics, and political economy. Without such technical expertise an NGO campaign will be limited to campaigning around particular public scandals rather than agenda setting and policy innovation. The skills of TJNs core members encompass the competencies necessary to analyse, and provide means of redress for, problems within the international tax environment. Accounting, law, economics, political economy and business constitute the principal disciplines encompassed by the tax justice issue. Apposite professional expertise and experience are important but are infrequently located within larger bureaucratic NGOs. To professionally mobilize on global tax reforms the issue has to be put forward by entrepreneurs with unique capacities to organize rather than belonging to a particular organizational type.

TJN's influence comes from its capacity to build shared narratives, provide research-led alternatives to mainstream measures and indexes, assert clear policy positions, and engage corporate interlocutors in public debate. Members of TJN have been able to speak to and influence audiences in the activist, scientific, policy, and corporate 'worlds'. Issue entrepreneurs able to engage in identity switching between network domains have a greater capacity for professional mobilization on complex technical issues. Following extensive interviews with key members of TJN and other activists and NGO staff, participant observation in meetings and workshops on tax justice, and Case Study Integrity Meetings with tax activists, we located four key strategies.

The four key strategies are:

- ❖ *Berserking* – entering an environment and aggressively challenging key policy ideas.
- ❖ *Narrating* – providing a consistent storyline that challenges existing norms and gives life to actionable alternatives.
- ❖ *Cornering* – controlling a debate by representing diverse sources of authority and maintaining distinct identities rather than the face of one organization.
- ❖ *Templating* – providing clear recommendations and treatments for complex issues to directly inform policy design and implementation.

These strategies for professional mobilization rely on identity switching between the activist, scientific, policy, and corporate network domains. They also rely on tactics that we call 'access' and 'activation' points. Access points are point of entry for issue entrepreneurs into particular arenas, often based on recognized expertise and past or present professional networks. Activation points are moments where actions are made for a particular audience in an attempt to create momentum on the issue.

Table 1: Access and Activation Points

Access Point = O

Activation Point = X

	Activist	Scientific	Policy	Corporate
Bezerking	X		O	O
Narrating	X	O	X	
Cornering	O	O	X	O
Templating	X	O	X	O

Table 1 outlines how these tactics are deployed according to access and activation points. The members of TJN draw on expertise and authority in one network domain to get action in another. In Table 1 O denotes an access point and X an activation point. To walk through the examples, in the Berserking line past experience and professionals networks in the policy and corporate network domains permit access to events and forums where TJN members can loudly complain about the lack of attention given to tax justice issues. The Narrating line shows an access point in the scientific domain, where key members of TJN receive esteem for their knowledge of accounting, law, and economics, permitting them to articulate a clear narrative and storyline as the people who know best on how reforms on tax justice should proceed to the activist and policy domains.

In the Cornering line we can see three access points in the activist, scientific, and corporate domains and an activation point in the policy domain. Here TJN members represent themselves as different professionals from different backgrounds to corner the issue in the media and provide a coherent position on what reforms are required that is aimed at a policy audience. Or, in contrast, Templating, where the access point is from the scientific and corporate network domains where particular skills, expertise, and credibility in forensic accounting lead to the creation of policy templates that are disseminated to the activist and policy network domains in an attempt to build greater support.

For sake of brevity we provide two concrete examples. The term ‘berserk’, derived from Old Norse, denotes members of warrior gangs who served as bodyguards in the courts and were deployed as shock troops in battle. Here, it describes accessing a corporate or policy domain on the basis of professional identity and expertise and then switching identity to the impassioned activist. The Director of TJN reports the deployment of this tactic in 2004 at Chatham House during a forum on Corporate Social Responsibility. Invited to the forum because of his professional history at the end of the meeting he loudly demanded that addressing tax avoidance should be included as a core principle for Corporate Social Responsibility. His intention was to redirect the debate, at the cost of transforming a ‘love in to a hate in’ and embarrassing a range of issue entrepreneurs for failing to address the key socioeconomic issue to do with multinational firms. A second example is the creation of treatments for complex technical issues about global tax reform. This tactic relies on access points in the scientific and corporate domains, especially professional networks and experience that assist in understanding technically complex issues. Activation points then follow in the policy and activist network domains where templates are released to guide policy thinking, design, and implementation.

Prominent here is the development of ‘Country-By-Country Reporting’ (CBCR), which was designed by a core member of TJN, and is now part of EU legislation and further active policy discussion at the OECD, IMF and EU. Multinational and transnational firms produce accounts on a worldwide basis, but are not obliged to provide separate accounts for each jurisdiction where they have a presence. This means profits, losses, costs, liabilities and assets can be distributed so as to minimise a tax exposure. CBCR promises to resolve this by demanding financial reports for each jurisdiction where a firm has economic activity.

TJN produced a template for CBCR in 2003. A large TAN, Publish What You Pay (PWYP), campaigning on transparency in the extractives industries picked up the concept in 2005. By 2005, PWYP were campaigning for CBCR to be introduced in International Financial Reporting Standard 6 for the extractive sectors, and subsequently pushed for its inclusion in International Financial Reporting Standard 8. While setting up a sub-group on the topic, the private standard-setting body

the International Accounting Standards Board (IASB) took a largely obstructive stance with regard to the demands of PWYP. In 2013, issuing a statement that its constituency had provided consistent feedback that CBCR was not in its interest to develop. However, by providing a template TJN was able to ally itself with PWYP and make the argument that CBCR could provide important data. The CBCR template then sparked interest from the European Commission and in 2010 a Directive was put forward to apply the financial reporting standard either to all companies or to extractives. TJN played a critical consulting role in providing the template for applying CBCR to the extractives industry, with a key member of TJN noting that ‘NGOs just don’t get accounting’. Since, CBCR has been incorporated in CRD IV, Europe’s legislative package covering prudential rules for banks, and is a key parameter in on-going debates at the OECD as part of the BEPS process.

POLICY IMPLICATIONS

Networks and Organizing - We stress the implications of our analysis for understanding how issue entrepreneurs operate within their professional and organizational networks. TJN has a short but amazingly successful history in advocating global tax justice. This group is best characterised by their form of organizing advocacy (identity switching) rather than as form of organization, the typical NGO. They have made significant inroads in producing a new financial reporting standard, CBCR, in addressing tax avoidance and evasion through the provision of new metrics, by fostering political salience to address corporate transfer pricing, and placing unitary taxation on the global policy agenda.

Unblocking Policy Pipelines – We also stress that in areas where established and well-resourced actors are positioned to uphold a status quo and inter-state consensus hard to come by, impetus can come from a policy ‘Darwinian devil’. Sedimented policy systems can be unlocked where actors maintain organizational flexibility and are able to introduce novel ideational elements to the ecosystem. Issue control can become fluid if policy processes provide space for radical elements. This not only promises higher levels of policy innovation but greater legitimacy for the European polity.

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FURTHER READING

All working papers, policy briefing papers and other publications are available on our website: www.greenfp7.eu/papers