Accounting for influence

how the Big Four are embedded in EU policy-making on tax avoidance

CEO

It is a curious fact that European institutions turn to the very industry depriving them of revenue – the tax avoidance industry – for advice on their policy responses to tax avoidance.

The EU even pays millions for studies on tax policy from this industry.

The channels of influence the tax avoidance industry uses range from formal channels such as advisory groups to informal ones like the revolving door.

And the social costs of their influence are enormously high.

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Glossary

AFEP	French Association of Large Companies
ALDE	Alliance of Liberals and Democrats for Europe (European Parliament)
ALTER-EU	Alliance for Lobbying Transparency and Ethics Regulation
AmCham EU	American Chamber of Commerce to the European Union
BDI	Bundesverband der Deutschen Industrie/ Federation of German Industries
BDO	Binder Dijker Otte (fifth largest (after the Big Four) accounting network)
BEPS	Base Erosion and Profit Shifting (tax planning strategies used by multinationals that exploit loopholes in tax rules of different countries to artificially shift profits to tax havens)
CBCR	Public Country By Country Reporting (multinational corporations report information on every country they operate in showing where they make their profits and where they pay tax, currently being decided by EU decision-makers)
CCCTB	Common Consolidated Corporate Tax Base (European Commission proposal to introduce technical rules for the consolidation of profits and the apportionment of the consolidated base to eligible EU member states)
CCTB	Common Corporate Tax Base (European Commission proposal to introduce a single set of EU rules for calculating the corporate tax base in the EU's internal market)
DG ECFIN	Directorate-General for Economic and Financial Affairs (European Commission)
DG FISMA	Directorate-General for Financial Stability, Financial Services and Capital Markets Union (European Commission)
DG TAXUD	Directorate-General for Taxation and Customs Union (European Commission)
EBIT	European Business Initiative on Taxation
ECG	European Contact Group (Big Four plus next two largest accountancy networks)
ECON	Committee for Economic and Monetary Affairs (European Parliament)
ECR	European Conservatives and Reformists (European Parliament)
EGIAN	European Group of International Accounting Networks and Associations
EK	Confederation of Finnish Industries
EPP	European People's Party (European Parliament)
EPSU	European Public Service Unions
EURODAD	European Network on Debt and Development
EY	Ernst & Young (formerly, now known as EY)
FEB/VBO	Fédération des Entreprises de Belgique/ Verbond van Belgische Ondernemingen/ Federation of Enterprises in Belgium
FEE	Federation of European Accountants (now known as Accountancy Europe)
FTE	Full Time Equivalent
G20	Group of 20 (19 individual countries plus the EU)
JURI	Committee for Legal Affairs (European Parliament)
MEDEF:	Mouvement des entreprises de France/ French Business Confederation
MEP	Member of European Parliament
OECD	Organisation for Economic Co-operation and Development
PANA	Committee for Money laundering, tax avoidance and tax evasion (European Parliament)
PWC	PricewaterhouseCoopers
S&D	Progressive Alliance of Socialists & Democrats (European Parliament)
TJN	Tax Justice Network
WHO FCTC	World Health Organisation Framework Convention on Tobacco Control
WKO	Wirtschaftskammer Österreich/ Austrian Economic Chamber

Executive summary

EU policy towards corporate tax avoidance is informed by an advisory system littered with conflicts of interest. Despite all the evidence – from the various tax leaks, scandals, and parliamentary enquiries and reports – of the role the 'Big Four' global accountancy firms play in facilitating, encouraging, and profiting from corporate tax avoidance strategies, they continue to be treated in policy-making circles as neutral and legitimate partners.

Advisory groups giving the Commission 'expert' opinions on its tax policy are populated by both corporate interests and members of the tax avoidance industry. At the same time the EU is paying millions for private 'expertise' in the form of tax-related policy research from the Big Four. The tax avoidance industry, particularly the Big Four, also have 'informal' channels of influence, using lobby vehicles like the European Business Initiative for Taxation, the European Contact Group, Accountancy Europe, and AmCham EU. And a normalised revolving door between the Big Four and EU institutions perpetuates a shared culture and ideology.

The lobbying and influence of tax intermediaries like the Big Four (and the multinational corporations they sell tax avoidance schemes to) is illustrated by two EU case studies: on new transparency rules for tax planning intermediaries, and on public country-by-country tax reporting, a proposal which is yet to be agreed by the EU institutions

This report concludes that it is time to kick the Big Four and other players in the tax avoidance industry out of EU anti-tax avoidance policy. The starting point for this must be recognition of the conflict of interest in allowing tax intermediaries to advise on tackling tax avoidance. Only then can an effective framework emerge to ensure public-interest tax policy-making is protected from vested interests.

1. Introduction

Billions of euros are lost in the European Union each year due to corporate tax avoidance. Unlike illegal tax evasion, this involves companies using accounting tricks such as exploiting loopholes in tax laws, using complex financial transactions, shell companies, and moving profits between countries to avoid paying taxes.[1] A study for the European Parliament estimated that corporate tax avoidance costs the EU between €50 billion and €70 billion a year – and could even be as high as €160-190 billion.[2] Corporate tax avoidance in the EU affects us all, widening social inequalities, endangering the financing of public services like schools and hospitals, and threatening the foundation of welfare systems.

Globally, revenue loss from corporate tax avoidance has been estimated at US$500 billion a year.

Corporate tax avoidance is not just a European issue. Scandals like the 2014 LuxLeaks and 2017 Paradise Papers have shone a light on the extent and pervasiveness of tax avoidance around the world. They have shown how multinational corporations – with the help of tax planning intermediaries – use complex tax arrangements such as setting up shell companies in tax havens (states with low or zero effective corporate tax rates and/or high secrecy, in the EU and around the world), in order to escape taxes, while ordinary people and small national businesses pay.

Tax Haven / Secrecy Jurisdiction

State with low or zero effective corporate tax rates and/or high secrecy, in the EU and around the world

This problem costs developing countries between US$70-120 billion per year, according to conservative estimates.[3] Oxfam estimates that this is enough to cover the education of the 124 million children around the world unable to attend school, and provide healthcare that could save the lives of 6 million children each year.[4] Globally, revenue loss from corporate tax avoidance has been estimated at US$500 billion a year.[5]

This report looks at the influence of the tax avoidance industry on tax-related policy-making in the EU. Such a study is long overdue, particularly given the EU's increasing role in tax-related law and policy. The tax avoidance industry is made up of all the intermediaries that facilitate corporate tax avoidance, which includes tax advisers in the form of accountants and auditing firms, tax lawyers and law firms, and financial institutions like banks, as well as other kinds of service providers, that set up trusts or shell companies.[6] Previous work by Corporate Europe Observatory and by the Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) found that the European Commission's tax-related advisory groups were dominated not only by corporate interests, but by the tax avoidance industry itself.[7] In part, this report examines what – if any – progress has been made in the five years since, but also broadens its scope to consider other channels of influence. More fundamentally, this report focuses on the Big Four accountancy firms (see Box 1).

Although the Big Four are by no means the only influential intermediaries, their size and omnipresence in the policy-making sphere means they are key players. And despite all the evidence – from the various tax leaks, scandals, parliamentary enquiries, and reports[8] – of the role the Big Four play in facilitating, encouraging, and profiting from corporate tax avoidance strategies, they continue to be treated in policy-making circles as neutral and legitimate partners. It is as if their 'expertise' is somehow removed from the way they make their money. Thus the Big Four provide the European Commission with millions of euros of tax-policy-related consultancy services each year, they sit in its advisory groups, and enjoy long-standing insider relationships with EU institutions. Their channels of influence are many and deep. Yet policy-makers seem blind to their conflicts of interest, unable to see the Big Four as vested interests with private agendas, even when this is apparent from the positions of the lobby vehicles they use.

...despite all the evidence of the role the Big Four play in tax avoidance, they continue to be treated as neutral partners.

Box 1. Who are the Big Four?

The biggest four global accounting, auditing, consultancy and professional services networks are:

Deloitte	PriceWaterhouseCoopers (PWC)	EY (formerly Ernst & Young)	KPMG
2017 global revenue **$38.8 billion**[9]	2017 global revenue **$37.7 billion**	2017 global revenue **$31.4 billion**	2017 global revenue **$26.40 billion**
263,900 employees	**236,000** employees[15]	**247,570** employees[17]	**197,263** employees[19]
Headquarters: **UK**	Headquarters: **UK**	Headquarters: **UK**	Headquarters: **Switzerland**
EU Transparency Register data: 10 different Deloitte entities in the register (from 9 different EU countries), totalling **34 lobbyists (14.5 full time equivalent (FTE)**).	**EU Transparency Register data:** PWC's single entry (PWCIL) declares **11 lobbyists (3.5 FTE)**.	**EU Transparency Register data:** EY's single entry (Ernst & Young Special Business Services CVBA) declares **6 lobbyists (6 FTE)**.	**EU Transparency Register data:** KPMG's single entry (KPMG EMA) declares **6 lobbyists (5 FTE)**.
Declared **between €975,000 and €1,439,991** annual EU lobby spend.[10]	Declared an annual Brussels lobby spend of **€700,000 to €799,999**.	Declared an annual Brussels lobby spend of **€400,000 to €499,999**.	Declared annual EU lobby expenditure of **€500,000 to €599,999**.
Membership of **two** Commission advisory groups.[11]	Membership of **one** Commission advisory group.	Membership of **one** Commission advisory group.[18]	Membership of **one** Commission advisory group.
Deloitte Tax & Consulting lists European Commission directorates as clients for a total of **almost a million euros**,[12] whilst Deloitte & Associés and Deloitte Conseil declare EU procurement contracts for **over a million euros**.[13]	**€19.7 million** in EU procurement contracts.		**€8 million** in EU procurement contracts.
Brussels office: at Rond-Point Schuman, **right next to the Commission and Council**.[14]	Brussels office: in Square de Meeûs, **just across from the European Parliament.**[16]	Brussels office: **just north of Brussels**.	Brussels office: on Rue du Trône, a **stone's throw from the European Parliament.**[20]

The role of tax planning intermediaries and accountancy networks sits at the heart of a deeply political issue, one fundamentally about justice, equity, and democracy. As noted by Thomas Piketty, author of *Capital in the Twenty-First Century*, the "offshore industry is a major threat for our democratic institutions and our basic social contract... Financial opacity is one of the key drivers of rising global inequality."[21] And the Big Four have a wider responsibility for fuelling financial instability and inequality. They had a key role in the financial crash of 2008, failing to ring the warning bell about banks they audited, signing off on their accounts just months before their collapse triggered years of austerity across Europe.[22] As a report by Transnational Institute has also noted, together with a small group of financial advisory firms, the Big Four also designed some of the most important taxpayer bailout packages.[23] "The Big Four's role in further denuding public coffers by facilitating tax avoidance, and shaping the policy responses to it, adds insult to injury.

...the "offshore industry is a major threat for our democratic institutions and our basic social contract..."

Timeline of tax leaks scandals:

April 2013	OffshoreLeaks
January 2014	ChinaLeaks
November 2014	LuxLeaks
December 2014	LuxLeaks II
February 2015	SwissLeaks
April 2016	Panama Papers
September 2016	Bahamas Leaks
May 2017	Malta Files
November 2017	Paradise Papers

1.1 The EU's growing role in tax legislation

EU member states have control over their own tax systems, provided they comply with EU rules adopted unanimously by the Council of the EU (ie agreed by all member states). Yet the EU is playing an increasing role in tax-related legislation following the numerous tax leaks and scandals that have come to light in the last 15 years. For example, following the 2014 LuxLeaks scandals which exposed Luxembourg's secret tax deals with multinational companies – many brokered by PWC and other Big Four accountancy firms – public pressure forced the European Commission (headed by Jean-Claude Juncker, who had been Prime Minister of Luxembourg whilst these deals were being made – see Box 3) to respond. In March 2015 the Commission presented its Tax Transparency Package, which included a proposal to introduce the automatic exchange of information between member states on their tax rulings (the kind of dodgy tax deals exposed by LuxLeaks).

The next step taken by the Commission was its June 2015 'Action Plan for fair and efficient corporate taxation in the EU'. This sets out to reform the corporate tax framework in the EU in order to tackle tax abuse. The Action Plan launched a debate on the Common Consolidated Corporate Tax Base (CCCTB) as a solution to transfer pricing, in which prices of goods sold from one part of a company to another, eg a subsidiary, are in fact manipulated as a tax avoidance strategy (see 2.3). It also set out the path for country-by-country reporting (CBCR), a transparency measure aimed at ensuring profits are taxed in the country where they are generated, rather than moved into countries with low- or no-tax systems (see Legislative Case File 2). Other initiatives included the list of 'non-cooperative tax jurisdictions' – better known as the tax havens blacklist.

In January 2016 the Commission presented another pack of measures: the Anti-Tax Avoidance Package.[24] This translated the 2015 Action Plan into concrete measures to prevent 'aggressive' tax planning (schemes that facilitate tax avoidance), boost tax transparency, and create a level playing field for all businesses in the EU. These two packages opened a boulevard for corporate lobbying, as opportunities arose to shape the new policy proposals in ways that would be to their advantage (or least disadvantage). They also build on the 2015 Organisation for Economic Co-operation and Development (OECD) recommendations to address tax base erosion and profit shifting (BEPS) - see Box 5. BEPS refers to tax planning strategies used by multinational companies (but often designed and sold by intermediaries) that exploit gaps and mismatches in tax rules of different countries to artificially shift profits to low or no-tax locations, where they have little or no economic activity (tax havens).

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2. The Big Four's channels of influence

Widespread and large-scale corporate tax avoidance doesn't just happen. Yes, it is facilitated by a global network of offshore tax havens and financial secrecy, but it is the vast networks of intermediaries or 'enablers' that are its engine.[25] And intermediaries like the Big Four are actively, even aggressively, selling the tax planning arrangements that they design, and which enable multinationals to avoid tax. Within the tax avoidance industry, "the Big Four accounting firms play a particularly strong role", notes the Tax Justice Network, using "high-pressure sales tactics" to push "large-scale abusive tax avoidance schemes" to multinational corporations.[26]

The Big Four push large scale abusive tax avoidance schemes to multinational corporations.

Certainly, the multinational corporations that pocket millions thanks to tax avoidance schemes are also actively lobbying around policy responses to tax avoidance (as can be seen in Legislative Case File 2). But it is the Big Four accountancy networks whose tax 'expertise' has enabled them to become so deeply embedded in regulatory systems, despite their role as global tax avoidance enablers. As the Tax Justice Network points out:

> *The Big Four today have a combined turnover of EUR 120 billion globally and employ 750,000 people. In Germany they audit the books of 142 of the 160 largest listed companies. At the same time they work as tax advisors and consultants to political institutions and oversight bodies. They themselves are organized as networks of separate companies and don't publish any consolidated accounts – in a way deviating from the rules they made themselves.*
>
> *This form of influence on international accounting standards while having strong self-interest can be seen as regulatory capture... private business actors take on specific regulatory tasks on behalf of the state and influence the standards as well as their implementation.*[27]

The channels of influence explored below – public procurement contracts, lobby vehicles, advisory groups, and a shared culture and personnel – illustrate the Big Four's omnipresence in the tax policy-making sphere. The two legislative case files give further insight into how the Big Four – amongst other actors in the tax avoidance industry, and alongside the lobby groups of their multinational company clients – seek to influence EU tax-related policy and responses to tax avoidance.

2.1 Public procurement contracts

"[I]f these firms work so hard to undermine the government's income why do we grant them government contracts?"
- Professor Richard Murphy[28]

The Big Four receive tens of millions of euros of public money every year from the European Commission in the form of public procurement – winning contracts to carry out studies, evaluations, impact assessments and more that feed into the legislative process, on a range of issues. The Financial Transparency Initiative of the Commission's Budget department reveals quite staggering numbers for 2016: €51.4 million KPMG, €23.8 million EY, €17.5 million PWC, €12.3 million Deloitte, ie a total of €105 million in just one year. And this includes millions of euros of tax-related contracts: the Directorate-General for Taxation and Customs Union (DG TAXUD) paid the Big Four nearly €8 million in 2016 (PWC €3.8 million, Deloitte €2.3 million, EY €1.5million, KPMG €0.3 million). But what kind of things is it paying them for?

In October 2014 DG TAXUD awarded nearly €7 million to PWC, Deloitte and EY for management consultancy services "to carry out studies and comparative analyses in various tax and customs areas".[29] Yes, that is exactly how it sounds. Major tax avoidance facilitators being paid to produce the studies and background material used as a basis for decision-making around tax. But that was in October 2014... did the LuxLeaks in November and December 2014, which demonstrated the role of PWC, EY, Deloitte, and KPMG in helping multinationals avoid billions in tax by channelling money through Luxembourg, change the Commission's mind about the wisdom of this? Alas, not.

Fast forward past the Panama papers in 2016 and Paradise papers in 2017, to January 2018, when €10.5 million was awarded to PWC, Deloitte, and KPMG for services to DG TAXUD for studies on "various taxation and customs issues". It is not clear exactly what these will be, as the Commission will decide on a "case-by-case basis" on the studies' topics, which could include "the monitoring of legislation", "important tax developments on the national, European and international level", or "preliminary assessments of the EU-law compliance of Member States' tax legislation and its practical implementation".[30] In other words, these contracts represent a broad and non-transparent way of outsourcing studies on how tax laws are working, changing or being complied with, to enablers of tax-avoidance. It is absurd that the question of possible conflict of interest does not appear to arise in such cases.

Box 2. KPMG studies state-owned companies and privatisation for the Commission

In 2016, the European Commission's Directorate-General for Economic and Financial Affairs (DG ECFIN) set off alarm bells when it awarded KPMG Advisory SPA (the consultancy giant's Italian arm) and an Italian university a contract worth €800,000 to "provide an overview of assets (including State-owned enterprises) owned by the public sector in the EU 28".[31] As Corporate Europe Observatory has previously reported, this was to include looking at the "best practices" of these companies, including "restructuring and/or privatisation".[32] KPMG's final report has not been published as of June 2018, and no substantive information has been released on its findings, on the grounds that it "may have a bearing on decisions which have not yet been taken by the Commission".[33] It is not absolutely clear what those decisions might be, but it seems a fair bet that the European Semester cycle – in which the Commission makes 'recommendations' to member states about how to structure their economies – could be a focus, including recommendations to privatise state-owned businesses. In 2018 three member states are facing European Semester recommendations to push ahead with privatisation.[34]

Hiring tax avoidance enablers to input on tax measures they lobby against

Outsourcing tax expertise to tax avoidance enablers creates a clear conflict of interest. A case in point: a firm that has a commercial interest in a policy is hired to provide crucial evaluative input that will be used by decision-makers to help them decide on that policy. In December 2016 two studies prepared by Deloitte for DG TAXUD were published, both relating to transfer pricing. Transfer pricing is a key means by which multinationals avoid tax (see 2.3).

Outsourcing tax expertise to tax avoidance enablers creates a clear a conflict of interest.

As part of its business, Deloitte offers its corporate clients advisory services on transfer pricing.[35] The two studies Deloitte prepared for the Commission concerned how transfer pricing is conducted[36] and the comparability of data. The latter seeks to contribute "to strengthening and effectively implementing an improved EU transfer pricing framework and fight against aggressive tax planning".[37]

Yet long before Deloitte produced this study for DG TAXUD it had made its views on tackling transfer pricing quite clear. In a February 2014 submission to the OECD on transfer pricing, Deloitte opposed more "burdensome" measures to restrict the practice. It complained that providing tax administrations with the information to thoroughly examine multinationals' transfer pricing practices "is inconsistent with the overarching consideration of balancing [multinational enterprises'] compliance burdens with the usefulness of the data being collected". In other words, burden to business trumps other considerations. It also complained that the OECD's proposed rules would "dramatically" increase compliance costs for multinational corporations, and argued for very strict confidentiality protection of transfer pricing related documentation.[38] Deloitte also insisted that unless all OECD and G20 members adopt the same rules, it would "unfairly increase the compliance burden on business." The implication of this is that the EU should not introduce stricter rules on transfer pricing unless the rest of the OECD/G20 does. Yet despite being clearly on the side of big business, and against tougher regional measures, DG TAXUD hired Deloitte to carry out studies that might influence transfer pricing policy decisions!

Nor is this the first time the Commission has done this. In 2014 NGO network Eurodad (the European Network on Debt and Development) raised concerns that PWC had been hired to do the impact assessment on public CBCR for banks in the EU, after opposing publication of CBCR data in a submission to the OECD. Following media coverage and increased public awareness about this conflict of interest, PWC published a report that concluded public CBCR for banks would not have negative impacts. This result – which came after a civil society group had raised the stakes by making it harder for PWC to repeat its previous opposition – cannot, however, be a justification for ignoring this kind of problematic conflict of interest.

Box 3. Stranger than fiction: the role of President Juncker

Commission President Juncker was heavily involved in tax scandals from his time as Prime Minister of Luxembourg, when he passed numerous tax avoidance loopholes. A study by the European Greens showed how under Juncker, Luxembourg did everything it could to water down the EU's savings tax directive, an important reform to fight tax dodging by automatically exchanging tax information among member states.[40] Yet the Juncker Commission has published more tax reform proposals than any previous Commission, including important measures like public CBCR and transparency for tax intermediaries. Despite these positive steps, thanks to the business-friendly so-called 'Better Regulation' agenda that Juncker has pushed since taking up the Commission top job, he's in a position – alongside his Vice President Frans Timmermans – to have a major say on whether the tax regulations proposed by his Commission are 'fit for purpose'. In other words, that they are not too 'burdensome' or costly for big business.

Commission President Juncker was heavily involved in tax scandals from his time as Prime Minister of Luxembourg.

2.2 Lobby vehicles

There are various lobby vehicles – informal networks, business lobby groups, professional associations, and front groups – that are actively trying to influence EU policy responses to tax avoidance, which one or more of the Big Four have a driving seat in.

EUROPEAN BUSINESS INITIATIVE ON TAXATION (EBIT)

EBIT is in its own words "one of the most recognised – and influential – business representative bodies on direct tax in Europe".[41] The members of this business lobby are tax directors and vice presidents from "large corporate taxpayers" like oil giant BP, big pharma's GSK and Pfizer, Japan Tobacco International, Airbus, and PepsiCo. And who helps EBIT with its mission to "eliminate tax barriers" and "offer practical solutions" to EU policy-makers? Its secretariat, PWC. PWC makes it clear that it only "facilitates" the group,[42] which was set up in 2001 with its help.[43] But PWC's connections to some EBIT members run deeper. PWC is the current or former auditor of EBIT members including:

- GlaxoSmithKline, reportedly paid PWC fees of £32.5m in 2016;[44]
- Caterpillar, used PWC as auditor since 1923, paying annual fees of $32 million in 2011,[45] and reportedly worked with PWC "to set up its Swiss tax-cutting strategy".[46]

There is also an apparent discrepancy about how big a lobby operation EBIT is. In the Transparency Register EBIT declares spending under €10,000 to lobby the EU in 2017. Yet EBIT is listed as a lobby client of PWC, paying them €100,000 to €199,999 (for the period July 2016 to June 2017), ten or twenty times more than EBIT's declared 2017 lobby expenditure.[47]

EBIT's annual meetings garner high-level Commission tax officials speaking alongside PWC and multinationals.[48] PWC describes EBIT's "achievements" in 2017 as including a "pre-meeting cocktail and informal dinner with MEP Paul Tang" (the Parliamentary rapporteur on the Common Corporate Tax Base (CCTB) proposal) and "[d]eepening and broadening relations" with key Commission, Parliament, and OECD tax officials and policy-makers.[49] In January 2018 EBIT met with Commission tax officials to discuss "technical and administrational aspects for the taxation of the Digital Economy," but according to the Commission, no minutes, notes or correspondence about this meeting exist.[50]

THE EUROPEAN CONTACT GROUP

The European Contact Group (ECG) is an "Informal grouping of the six largest accounting networks in the EU".[51] This means the Big Four, PWC, Deloitte, EY, and KPMG, plus the next two biggest players, BDO (Binder Dijker Otte) and Grant Thornton. Aside from an entry in the Transparency Register (which reveals the grouping has no legal status, and lists an address that matches Deloitte's London office) the ECG is not a well-recognised name in Brussels. Its apparently low-key operation (which involved spending over half a million euros lobbying the EU between mid-2016 and mid-2017) makes the fact that it was apparently set up at the request of the European Commission in the early 1990s all the more startling.[52] And its goals are explicit: "shaping the regulatory environment", working "pro-actively with EU and national policy-makers to identify opportunities to remove existing regulatory barriers within the EU that impede the development of a free market in accounting and auditing services", and inputting into standards-setting in the EU. Released documents suggest it's doing just that: not only has the ECG been lobbying the Commission on tax-related issues, the Commission seeks out the ECG for advice, for example on how costly to business reforming the auditing system will be, or for its views on implementing international accounting standards.[53]

The ECG is not your typical loud and brash corporate lobby group: as it told the Commission Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) at a meeting in February 2017, it is a "forum for discussion and co-operation", and hence does not produce papers or organise events.[54] Represented by its Chair (who is from Deloitte), it also told DG FISMA, the department responsible for the public CBCR proposal, in a March 2017 meeting that "the debate around the role of audit firms and other intermediaries in tax optimisation schemes" is an immediate priority.[55] In the same meeting, ECG broached whether "corporate reporting" is still "fit for purpose", which is a term straight out of the Commission's 'Better Regulation' agenda (see Box 3) designed to scrap regulations that industry itself deems too burdensome or costly. In this vein ECG went on to question how useful corporate reporting is compared to the costs (to business) that it generates! Minutes from this meeting also reveal the ECG's intention to "cooperate more closely with Accountancy Europe on a number of topics", the accountants' federation whose board is littered with Big Four representatives (see below).

Box 4. Playing the long game: ECG's mixed history of success

The ECG also shows the persistent influence of the Big Four. Not only because it is two and half decades since it was set up "at the behest of the European Commission",[56] but because of its successful campaign through the mid 2000s to get the Commission on side in its battle to limit the financial liability of auditors. This means capping how much they can be fined for failing to identify a financial scandal in a client they audit – as the Big Four frequently do, with cataclysmic consequences for employees, and the economy, when firms they audit, like Lehman Brothers, RBS and British Home Stores, collapse. Back in 2004 the ECG was actively lobbying the EU for a cap on auditors' financial liability, including meeting MEPs and pressing diplomats to pursue the issue in the Council.[57] However the Commissioner then responsible for audit rules, Frits Bolkestein, surprised the industry by resisting, arguing that "unlimited liability would discipline auditors and guarantee better performance in the wake of a spate of corporate scandals, including the Enron and Parmalat affairs" (the latter of which involved ECG member Grant Thornton). However, Commissioner Bolkestein was soon succeeded by finance industry-ally Charlie McCreevy. By the time McCreevy gave a keynote speech at an ECG dinner in 2008, he was boasting to his hosts that he (ie the Commission) had issued a recommendation to member states that they limit auditors' liability.[58] Whilst not as strong as a regulation or directive, a Commission recommendation nonetheless carries political weight. As Dr Anna Samsonova-Taddei, Senior Lecturer in Accounting at the University of Manchester wrote in a 2010 analysis, McCreevy's stance "suggests that claims by the audit industry about 'cataclysmic' consequences of unlimited liability exposure had finally been successful".[59]

ACCOUNTANCY EUROPE

Accountancy Europe (formerly the Federation of European Accountants – FEE) represents national professional organisations of accountants, auditors, and advisers. Sitting on seven Commission expert groups, and spending a cool €2.2 million lobbying the EU in 2016,[60] Accountancy Europe seems to have earned itself a reputation as a more moderate and reasonable interlocutor (for example, its more favourable position on CBCR – see Legislative Case File 2). Yet its board is full of Big Four figures: its Deputy President is a Partner at Deloitte,[61] its Chief Executive and Deputy Chief Executive are both former PWC big shots,[62] and there are also some Vice-Presidents from KPMG.[63] The Chair of Accountancy Europe's Tax Policy group is also from PWC, and sits in the Commission's Platform on Tax Good Governance on its behalf (see 2.3). Ernst & Young Special Business Services, meanwhile, declares itself to be member of Accountancy Europe.[64]

Accountancy Europe's regular and high-level events further indicate a role for the Big Four at the very centre of things, with Commissioner Moscovici speaking at its Tax Day in 2017, and DG TAXUD officials and MEPs regularly attending its events, which often end in networking cocktails.[65] And it is no stranger to traditional lobby meetings either, for example, meeting twice in 2017 with Commissioner Moscovici's cabinet, including on the subject of tax intermediaries,[66] and DG TAXUD in November 2017 and January 2018. Released minutes from the latter meeting showed Accountancy Europe using the tried-and-tested industry tactic of warning of the "additional compliance cost for business" and the threat of "double taxation" (being taxed on the same revenue in two countries, rather than none, as is often currently the case!) from EU plans for fair taxation of the digital economy.[67] Meeting minutes also reveal Accountancy Europe's planned collaboration with ECG to form joint positions on tax-related issues.[68]

AMCHAM EU

The American Chamber of Commerce to the European Union (AmCham EU) is a big business lobby group that represents the interests of US multinational corporations, including ExxonMobil, Facebook, Monsanto, and Phillip Morris International.[69] PWC and EY are also members, and PWC's Deputy Global Tax Policy Leader, William Morris, chairs AmCham EU's Tax Committee.[70] Morris also sits on the European Commission's Tax Platform for Good Governance on AmCham EU's behalf. AmCham EU has been vocally opposed to tightening tax transparency,[71] and has actively lobbyied against public CBCR (see Legislative Case File 2).

Box 5. OECD: skewed in favour of business?

The OECD has been the driving force in tax matters at the international level, heading the BEPS project (broadly, on profits being artificially shifted to tax havens) initiated by the G20 in 2012. Corporate lobbying at OECD level is intense, seeking to control what is or is not on the agenda, since the OECD's recommendations will influence the policy direction of its members for decades. And vested interests have a pretty easy time of it, with over 50 professional and business associations formally participating in the BEPS Action 13 process[72] (over country-by-country reporting, or CBCR, which requires multinationals to report on their profits, and taxes paid, in each country they operate in). Oxfam found that almost 87 per cent of contributions to the OECD CBCR consultation were from business, almost all of which – unsurprisingly – were against CBCR (and particularly *public* reporting).[73] Following the 2013 consultation, the OECD announced that a number of critical reporting requirements would be dropped, including that data will not be made public. KPMG reported this as "good news".[74]

The little-known Business and Industry Advisory Committee (BIAC) provides the "voice of business at the OECD", representing national business associations like the US Council for International Business, the Confederation of British Industry, and the Australian Chamber of Commerce and Industry. BIAC promises business "a chance to shape the development of long-term policies in OECD countries". Its tax committee was a key driver in the OECD discussions on CBCR,[75] which saw commercial confidentiality beat the public right to know about corporate tax (non)payments. BIAC's tax committee is chaired by William Morris from PWC, who also chairs AmCham EU's Tax Committee (see above), and its Vice-Chair is Krister Andersson,[76] Chair of BusinessEurope's Tax Working Group (see Legislative Case File 2) – both of whom also sit on the Commission's Tax Platform for Good Governance. EY is also a member of BIAC's tax committee.[77] This is illustrative of the high degree of cross-over and close proximity between big business, the Big Four, and the EU and OECD's advisory structures on tax avoidance. It is a heavy irony then that even the OECD has recognised that intermediaries like tax-planning experts "can play a decisive role in creating and maintaining [policy] capture" given their specialised knowledge and because "many (such as former public officials or businessmen) are well-connected".[78]

Part of the EU's legislative role has been to translate into legislation the OECD recommendations to address BEPS and other international tax-related issues, such as tackling tax avoidance 'enablers' (see Legislative Case File 1). In some cases, the Commission has gone further than BEPS best practices, rather than merely translating them (as with its proposal for public CBCR). However, since the OECD recommendations are quite wide and general, business lobbies have an opportunity to shape the details of their implementation at EU-level, and to seek to introduce loopholes into new EU rules. And as BIAC's tax committee shows, many of the same people pushing corporate interests at the OECD are now doing the same thing at EU-level.

LEGISLATIVE CASE FILE 1

New transparency rules for tax planning intermediaries

Part of the Commission's policy agenda to tackle tax abuse in the EU was its proposal for new transparency rules for intermediaries (eg consulting firms, accountants, banks, lawyers, tax advisers etc) that design or sell potentially harmful tax schemes.[79] This June 2017 proposal was also a step towards implementing the OECD BEPS (Action 12), following the recognition that tax authorities need to know more about the schemes designed by intermediaries to help clients avoid tax (known as 'aggressive tax planning'), in order to take effective action.

There is however a distinction to be made between real transparency, with published information about tax avoidance schemes that can be put under scrutiny by the public and the press, and confidential reporting to tax authorities alone (as in the Commission's proposal). The latter is anything but transparent, and may be ineffective, as NGO network Eurodad explains. This is because tax authorities (with limited resources, or lack of political support) may not be able to do much if they get access to information about highly immoral, but technically legal, corporate tax avoidance. By contrast, public pressure and outcry, as well as scrutiny by journalists and civil society, could "allow tax administrators to benefit from public support for stopping corporate tax avoidance, and... help identify cases where multinational corporations are engaged in questionable tax practices".[80]

During the consultation period prior to the Commission's proposal, many intermediaries – including the Big Four – were actively lobbying to make it as weak as possible. For example:

- KPMG argued in its response that it is not "appropriate" for legislation to be used "to regulate how advisers make judgement calls on complex and inevitably partially subjective issues such as the border between acceptable and non-acceptable planning", promoting "voluntary guiding principles" instead.[81] KPMG followed this up with an April 2017 meeting with DG TAXUD to "ascertain how they would be able to provide further input". It said it supported the Commission's "overall aim" but insisted its solutions must be "proportional" and not encroach on the principle of subsidiarity, as well as complaining that the OECD BEPS is "too orientated on corporate rather than personal tax avoidance".[82]

- PWC wrote to DG TAXUD that the option of doing nothing could avoid an "unnecessary burden on taxpayers, intermediaries and tax authorities", and that if the Commission must act, it should not be a "rules-based" but a "principles-based Code of Practice" ie voluntary not mandatory. It also warned that mandatory disclosure could "have an adverse impact on investment into, and within, the EU".[83]

The Commission's proposal did include mandatory rules for intermediaries to disclose potentially aggressive tax planning schemes, but only to tax authorities, not the public. Following the proposal, the lobbying continued with a renewed focus on watering down what counts as 'aggressive' tax planning. PWC met with DG TAXUD in September 2017, saying it supported the proposal "in principle" and doesn't "want to be seen as blocking it" but that it was too "broad", too burdensome, too damaging to investments, and has too short a period for reporting.[84] But the Commission was no longer really the main target for lobbying. The European Parliament's role in the legislative process for this proposal was minimal (only being consulted for an opinion), making the real lobby target the Council.

The Council is not very transparent about its decision-making, especially when it comes to deliberations between member states on specific dossiers (see Box 6). It is hard to access information on lobbying at Council level, but when the Council reached agreement, the final text – whilst retaining some important aspects, including mandatory exchange of information, which business had fought – had nonetheless been watered down in a number of significant ways. Some of these ways bear a strong resemblance to PWC's suggestions. In August 2017, two months after the Commission published its proposal, PWC produced a bulletin which set out ways that a "Member State may argue that some current elements of the EC's proposals may potentially contravene EU law and therefore might need amending".[85] One of the arguments it so generously offered member states in order to water down the proposal was that inclusion of some of the hallmarks (attributes of a tax scheme that indicate it is 'aggressive', ie for tax avoidance) in the proposal might restrict the free movement of capital or "be deemed to disproportionately burden intermediaries/taxpayers in relation to the objective". It also set out that the Council should amend the proposal to:

- provide a longer time frame for reporting of aggressive tax planning schemes (ie at least 20 days, rather than the proposed 5);
- reduce the number of tax planning schemes considered aggressive (ie by narrowing the range of hallmarks[86]); and,
- ensure that the hallmarks can only be amended with a unanimous vote by all member states.[87] This would be slower and more difficult than amending them via a delegated act (as in the original proposal), and so make it easier for newly cooked-up tax avoidance schemes to remain unreported.

The text that the Council agreed upon in March 2018 had been weakened from the original proposal in *all of these ways*, with intermediaries given even longer to report (30 days). It seems reasonable to speculate that some member states were happy to take up PWC's suggested arguments (and no doubt those of other intermediaries lobbying along similar lines).

Of course, without knowing more details about the negotiations in the Council or which countries put forward arguments and amendments similar to those of PWC, and without more details on other intermediaries' lobbying, we cannot know just how influential the tax avoidance industry truly was in watering this proposal down. We do know however that some member state governments have close links with the Big Four. To take one example, Ireland's EU financial attaché was formerly at PWC, PWC's Irish Tax Director was seconded to the Irish Department of Finance (Business Tax Unit), and the Irish Finance Minister spoke at a PWC conference in September 2017.[88] The UK Government also has a documented intimate relationship with various Big Four firms.[89]

Box 6. Lack of transparency in Council of the EU

Many EU tax-related matters are decided under the 'special legislative procedure' which means that the Council is the sole decision-maker on a Commission proposal and the European Parliament is only consulted. Transparency about how the EU member states (EU28) make decisions on tax is very important, but it is sadly lacking. It is not easy to find out who is lobbying either national governments, or their Brussels-based Permanent Representations, on EU tax matters, as these bodies fall outside the scope of the EU lobby transparency register and are only subject to national lobby rules, where they exist at all. As ALTER-EU has previously investigated, member states' Permanent Representations are not proactively transparent in their lobby meetings, and very few provide the information when asked via freedom of information laws.[90] Meanwhile Council working parties dealing with tax avoidance-related policy, including the Working Party on Tax Questions (which is looking at the CCCTB proposal) and the Working Party on Company Law (which is looking at the CBCR proposal), do not produce any minutes, despite being the forum for discussions between member states to agree a common position.[91] The documents that are available tend to omit all information about specific member states' viewpoints. This tendency, common across the Council, has led the European Ombudsman to call for far greater transparency: "the current administrative practice of the Council's General Secretariat, not to record systematically the positions expressed by Member States in discussions within preparatory bodies, constitutes maladministration. The Ombudsman recommends that [it] should systematically record those positions … [which should] be made proactively and directly available to the public".[92]

2.3 Advisory groups

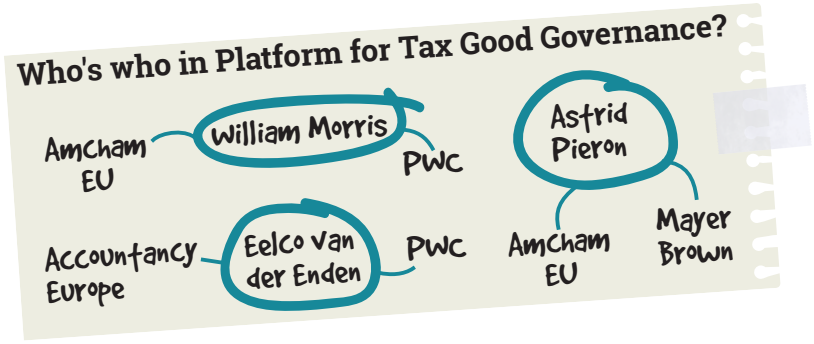
If you were seeking expert advice on how to prevent tax avoidance, the last people you might want dominating your group of advisers would be the very people who get paid to sell tax avoidance schemes to clients. Yet that is the very situation we find in the European Commission's tax-avoidance related advisory groups. The advice of these so-called 'expert groups' is often a powerful influence on the EU's legislative process. ALTER-EU research in 2013 found that DG TAXUD, charged with tackling tax dodging, was the worst performer in the Commission in terms of a balance of interests in its expert groups: almost 80 per cent of stakeholders represented corporate interests compared to 3 per cent for small and medium-sized enterprises (SMEs) and just 1 per cent for trade unions.[93] Recent research by Corporate Europe Observatory show corporate interests continue to dominate at least some Commission advisory groups.[94]

One clear example in terms of tax avoidance is the group that advises the Commission on transfer pricing,[95] which is dominated by large accountancy firms, big banks and financial institutions.[96] Moreover the mandate of the group, known as the **Joint Transfer Pricing Forum**, is less focused on how to stop transfer pricing being used by big business to avoid tax, than on reducing the burden for big business and avoiding double taxation (ie concentrating on the possibility of corporations paying tax twice, rather than the problem of tax being avoided). A few tiny improvements have been made over time, but even after the leaks revealing tax avoidance scandals, involved firms are still members. Deloitte remains on the group despite having spoken against tougher European measures to tackle transfer pricing (see 2.1), and PWC and Grant Thornton are also present.[97] Multinationals Volvo and Repsol are also members, whilst the group is chaired by corporate law firm CMS Bureau Francis Lefebvre, which advises clients on tax planning and transfer pricing.[98] Apparently the Commission's answer to the question 'Should tax avoiders and their advisers craft tax policy?' is still yes.

Another group that answers this question in the affirmative is the **Platform for Tax Good Governance**. Set up to help implement DG TAXUD's plans to tackle tax evasion and avoidance, it was exposed by Corporate Europe Observatory in 2014 as being dominated by corporate tax avoiders and the accountants that enable them.[99] The ensuing outrage led to some changes: by February 2017, corporate interests no longer occupied more than half of all seats, with more trade unions and professional associations taking part. However, business groups representing tax avoiding companies were still present, as were the accountants that facilitate corporate tax avoidance. Many of the business groups and accountancy members were also intimately linked, sharing membership, participating in each others' working groups, and generally pushing for the same positions. When trade union and NGO members raised the issue of wider conflicts of interest (ie those involved in tax avoidance sitting in the group), it was not seen as an issue.[100] Have the tax scandals since then, such as last year's Paradise Papers, spurred on any further improvements?

It does not appear so. A December 2017 email from the Commission's Tax Platform Secretariat to its members and observers, seen by Corporate Europe Observatory, reveals two recipients with a PWC email address: William Morris, who is the Chair of AmCham EU's Tax Policy Committee,[101] and Eelco van der Enden, Chair of Accountancy Europe's Tax Policy Group.[102] According to his Linked-in profile, Eelco van der Enden leads PWC's global Tax Administration Consulting, and before joining PWC worked for "various multinationals" including as head of tax.[103]

Contrast this with the Commission's published list of members, in which PWC does not appear at all.[104] Clearly, some individuals sitting in the group have more than one hat to wear. The fact that one of those hats is for a tax-avoidance intermediary evidently does not preclude their eligibility to sit on the Platform.



Box 7. Web of influence: PWC under the magnifying glass

Despite their vested interests, the Big Four are still being treated as neutral advisers. As an emblematic example of how deeply embedded the Big Four are in policy-making structures we present a case study of one of them, PWC. The results show how complex its web of influence is:

- PWC was not only the key player in the LuxLeaks scandal, but it pressed for its employees who blew the whistle to face criminal charges for violation of professional secrecy laws.[110]
- The UK Parliament's Public Accounts Committee found that PWC aided tax avoidance "on an industrial scale", and that "[c]ontrary to its denials, the tax arrangements PwC promotes, based on artificially diverting profits to Luxembourg through intra-company loans, bear all the characteristics of a mass-marketed tax avoidance scheme".[111]
- Minutes from a September 2017 meeting with the Commission show PWC's desire "to mitigate the perception that the 'Big Four' have an overt influence on standard setting".[112]
- In a brochure advertising its services to the EU institutions, PWC describes itself as bringing "independence [and] objectivity" to policy analysis and advice. It describes how it works with EU Institutions on taxation "to meet their objectives through studies, impact assessments and economic analyses in various tax areas", giving examples of studies "recently delivered by PwC". The various other services it offers the EU includes advising on "recruitment and selection".[113]
- PWC appears to have played quite a prominent role in the two legislative case files featured in this report, on public CBCR and transparency for tax intermediaries.
- PWC chairs both AmCham EU and Accountancy Europe's tax groups, sitting on the EU Platform for Tax Good Governance for both of them. It also chairs the OECD business advisory group, BIAC.
- PWC 'facilitates' the big business tax lobby group EBIT, helping with its mission to "eliminate tax barriers" through – for instance – cocktail dinners with MEPs and meetings with Commission officials (see 2.2).
- According to its lobby register entry, PWC declared spending €0.7 to €0.8 million on lobbying the EU (mid 2016- mid 2017). On the other hand, it declares receiving €19.7 million in public procurement from EU institutions in 2016.[114]

The email list also features a partner at law firm Mayer Brown's Brussels office, Astrid Pieron, who heads Mayer Brown's European transfer pricing centre. Pieron previously worked at the "world's leading tax and accounting firms: Deloitte (2002 to 2006) and Arthur Andersen (1981 to 2002)".[105] You may remember the latter firm as the disgraced auditor of collapsed energy giant Enron. Mayer Brown is not listed as a member of the Tax Platform in the Commission's register of expert groups, nor does Mayer Brown list membership of any expert groups in its EU transparency register entry.[106] So how and why is a law firm whose tax practice covers "every aspect of corporate, partnership and individual taxation in the United States and in Europe" including tax planning, transfer pricing, government relations,[107] and ways for companies to "optimize its tax position",[108] sitting on the Commission's Platform for Tax Good Governance? Well, clicking through the organisations named as Platform members in the Commission's register reveals Pieron's name alongside William Morris', both listed as AmCham EU.[109]

2.4 A cosy club: shared culture and personnel

"[The big four's] alumni control the international and national standard-setters, ensuring that the rules of the game suit the major accountancy firms and their clients... the big four have become a solvent dissolving the boundary between public and private interests"

- Richard Brooks[115]

Another significant channel of influence is the shared culture between the Big Four and public officials working on tax-related policy matters, and not least the shared personnel, with the revolving door between EU institutions and the Big Four utterly normalised. This is evident by the breadth of moves between the Commission's tax and finance departments and the Big Four, apparently seen as just part of a natural career structure. Even a cursory search of professional networking site Linked-in gives an indication of how common this is (see Table 1 for a non-exhaustive set of examples). It shows policy officers at DG TAXUD (the directorate in charge of transparency for tax planning intermediaries and tax haven blacklisting) coming from Deloitte or EY, and the Director of Tax Policy leaving DG TAXUD after 30 years to become a Tax Manager at Deloitte. And DG FISMA policy officers (ie the directorate in charge of public CBCR) coming from KPMG and Deloitte.

This trend is also evident in member states' EU representations: the Irish Financial Services Attaché came from PWC, the Finnish Tax Attaché from Deloitte, the Maltese Fiscal & State Aid Attaché from Ernst & Young, and the German Financial Services Attaché from KPMG! Not included in the table, but also routine, is the practice of interns or *stagieres* hopping between the European Parliament or European Commission and the Big Four. This phenomenon of young professionals getting their training at both EU public institutions and the Big Four is very common and noteworthy for the way it helps to breed a shared working culture and set of ideologies.

The idea that a constant swapping of personnel between private mega-firms that actively engage in selling tax-avoidance structures and the institutions responsible for tackling tax evasion might breed conflicts of interest just doesn't seem to be recognised. Nor that this structural revolving door might weaken the impetus for truly public interest regulation. Rather, the continued legitimacy bestowed on the Big Four as unbiased providers of policy assistance, through public procurement and expert groups, seems to sit alongside an unspoken assumption that Big Four experience might even be desirable in tax officials.

The idea that a constant swapping of personnel between private mega-firms that actively engage in selling tax-avoidance structures and the institutions responsible for tackling tax evasion might breed conflicts of interest just doesn't seem to be recognised.

TABLE 1. A FEW EXAMPLES OF HOW THE BIG FOUR ARE 'LINKED-IN' TO EU INSTITUTIONS [116]

	Official role	Big Four role	Ref
European Commission	Director of Tax Policy at **DG TAXUD** 1976 – 2007.	Tax Partner and Associate at Taj Société d'avocats, Member of **Deloitte**, 2008 – 2015.	117
	Policy Officer at **DG TAXUD** since 2013.	Tax Senior Manager at **Deloitte** Romania 2003 – 2009; Senior Consultant at **Ernst & Young** 2000 – 2003.	118
	Legal and Policy Officer at **DG FISMA** since 2016.	Legal Analyst - Regulatory Consulting at **Deloitte** Luxembourg 2012 – 2014.	119
	Policy Officer at **DG TAXUD** since 2014, before that Project Manager since 2009.	Consultant at **Deloitte** 2004 – 2009.	120
	Policy Officer at **DG FISMA** 2014 – 2015.	Manager at **KPMG** UK, before which Regulatory Adviser since 2015.	121
	Evaluation Officer (mainly) at **DG FISMA** 2012 – 2014.	Consultant at **Deloitte** Luxembourg 2011 – 2012.	122
	Head of Policy Coordination and International Unit **DG FISMA**, roles at FISMA since 2010.	Manager at **KPMG** US 1995 – 1999.	123
	Trainee – Assistant Policy Officer at **DG FISMA** 2015.	Senior Consultant at **EY** Brussels, since 2017, Junior Consultant at **EY** Brussels since 2015.	124
Member state EU Permanent Representations	**Ireland:** Financial Services Attaché since 2017.	Consultant at **PWC** London 2010 – 2015.	125
	Finland: Tax Attaché since 2017.	Tax manager at **Deloitte** Finland for 6 years	126
	Malta: Technical Attaché – Fiscal & State Aid since 2012.	Senior – International Tax Services at **Ernst & Young** 2008 – 2011.	127
	Germany: Financial Services Attaché since 2017.	Associate Audit Financial Services / Regulatory Services Group at **KPMG** Deutschland 2012 – 2013.	128

Corporate Europe Observatory's recent report on the revolving door between financial regulators in DG FISMA and the private sector also found examples of financial regulation unit heads coming from KPMG, and policy officers with pasts at PWC and EY.[129] This is not to mention former Finance Commissioner Jonathan Hill, the career lobbyist who switched at least five times between the public and private sectors, including founding a lobby consultancy hired by HSBC, the bank at the heart of the Swiss Leaks scandal, who has recently taken a 'Senior Adviser' role at Deloitte since leaving the Commission.[130]

LEGISLATIVE CASE FILE 2

Big Four and multinationals fight public CBCR

Part of the EU plan to tackle corporate tax avoidance in Europe is tax transparency.[131] Public country-by-country reporting (CBCR) is intended to help to scrutinise the tax behaviour of multinationals, and exert pressure on them to pay tax where they make profit (instead of exploiting loopholes to move profits to tax havens). Multinationals would have to publish information on every country they operate in (rather than just aggregate data) showing where they make their profits and where they pay tax. The aim is to shed light on non-transparent practices like corporate tax avoidance and aggressive tax-planning, which result in the erosion of the tax base and thus the loss of resources for countries.[132]

In the run up to the Commission releasing its public CBCR proposal in April 2016, multinationals and their tax advisers engaged in heavy lobbying. Part of the Big Four's core business is to do the taxes of multinationals (almost all of the Fortune 500 companies are audited by the Big Four,[133] many of which are also sold tax advice by them). The Big Four all participated in the Commission's 2015 consultation on corporate tax transparency, and as noted in an April 2018 Tax Justice Network report, "all rejected the proposal for the EU to pioneer public CBCR".[134]

- Ernst & Young called for any EU public CBCR to "ensure that there is no public disclosure of... commercially sensitive information", as per the OECD BEPS conclusions.
- KPMG said that further tax transparency "should not be adopted unilaterally" by the EU.
- Deloitte expressed support only for some "voluntary disclosure by companies" and nothing beyond OECD BEPS (ie not public disclosure).
- PWC's response emphasised the need to avoid "unnecessarily burdensome obligations for businesses", to have specific rules to "safeguard commercially sensitive data", and warned of putting EU-based firms at a "competitive disadvantage" compared to those in third countries.[135] This is ironic given PWC's own conclusion (in its impact assessment of public CBCR for banks – see 2.1) that it was "unlikely to have a significant negative economic impact, and could have a small positive economic impact"![136]

National big business associations pushed similar messages. Minutes from DG FISMA meetings[137] in the run up to the publishing of their proposal reveal that the Confederation of Finnish Industries (EK) warned of the "risk of misinterpretation" by the public, the "administrative burden" on companies, and the threat to "competitiveness".[138] Germany's BDI[139] argued that a "public reporting requirement would breach the confidentiality of the OECD/G20 agreement".[140] And they may have been pleased by the results of their efforts, since a very weak draft proposal was leaked in March 2016.

However, the April 2016 publication of the Panama Papers put tax transparency high on the world's agenda, ramped up by public outrage. As a result, when the final CBCR proposal was published by the Commission in April 2016, it was stronger than the leaked draft. But lobbying efforts just increased, with business and financial lobbies continuing to put pressure on DG FISMA. These included AFEP, the French Association of Large Companies citing concerns about competitiveness,[141] Austria's WKO, worried about "misinterpretation risks",[142] and US investment firm Capital International warning of reduced "attractiveness of the EU as a place of investment".[143]

After DG FISMA's proposal however, a lot of attention turned to the European Parliament, because the CBCR file gives MEPs a significant role through the co-decision procedure. This means the Commission, Parliament, and Council have to hash out an agreed text together, after the Parliament proposes its amendments to the Commission's original proposal. And the Parliament's role has turned out to be pivotal. Although it proposed strengthening the country by country element of the reporting requirements, it also introduced a big loophole. It appears that a corporate lobbying offensive directed at MEPs between April 2016 and July 2017 was instrumental in the Parliament's introduction of a get-out clause that allows corporations to keep "commercially sensitive" data secret. This will give multinationals a very broad shield behind which to hide from transparency about their tax payments. As Transparency International's Elena Gaita put it, the amendment "makes the text about as watertight as a sponge".[144] The press reported on the U-turn in the position of the liberal group, ALDE.[145] And analysis of the amendments proposed by MEPs in the Joint Committee (ECON and JURI) responsible for the dossier, shows that amendments with the get-out clause phrase "seriously prejudicial to the commercial position" were proposed by five liberal ALDE MEPs, two conservative EPP MEPs, and one right-wing ECR MEP.[146] So where might the inspiration for this get-out clause have come from? Looking at lobbying and connections may give us some ideas.

FINANCIAL INDUSTRY PROMOTES CLAUSE TO PROTECT "COMPETITIVENESS"

- In June 2016 **Insurance Europe** said the Commission's proposal could "harm the competitiveness of the EU", and expressed support for a clause that allows companies "to withhold information where it is reasonable for them to believe that disclosing such information could have a material negative impact on their competitiveness vis-à-vis their competitors."[147] (**KPMG** and **Deloitte** are sponsoring Insurance Europe's 2018 conference.)[148]

PWC STIRRING THE POT – WITH MORE THAN ONE SPOON?

- In April 2017 EPP shadow rapporteur on the dossier, Dariusz Rosati, organised an event "together with **PwC** EU Services" in the Parliament, entitled "Country by country reporting – the effects of making it public?" with speakers from **Accountancy Europe** and **PWC**.[149]
- One of the MEPs who proposed a "seriously prejudicial to the commercial position" amendment, Belgian ECR member Sander Loones, used to be a consultant for **PWC**.[150]
- **PWC** chairs **AmCham EU's** Tax Committee, and in April 2016 AmCham EU published a statement saying that public CBCR could harm "competitiveness and attractiveness as an investment destination" and that the focus should instead "be on confidential reporting to and between tax authorities".[151] Emilia Jeppsson, AmCham EU's Policy Officer for the Financial Services, Institutional Affairs and EU Tax committees at that time,[152] in October 2016 became Head of Office of Swedish EPP MEP Gunnar Hökmark,[153] one of those who proposed a get-out clause amendment. This wasn't Jeppsson's first time through the revolving door, as before her stint at AmCham EU[154] she had been Hökmark's Political Adviser! Hökmark's office did not respond to Corporate Europe Observatory's request for comment on concerns that his office is too close to Amcham EU, nor did it answer the question of whether his office was lobbied by AmCham EU on the CBCR file.[155]
- In contrast to **AmCham EU's** loud opposition to public CBCR, **Accountancy Europe** (whose Tax Policy Group is also chaired by **PWC**) took a different approach. Quicker to accept the tide of change, Accountancy Europe's strategy from early on has not been to oppose public CBCR, but to seek to shape it into something it can support. For example in July 2016 it presented a concrete proposal – with template – for CBCR, which sought to minimise "the risk of disclosing economically sensitive information".[156]
- Given that both **Accountancy Europe** and **AmCham EU's** tax groups are chaired by **PWC**, a question arises: could the different public positions that the groups have had – AmCham EU outwardly opposed, Accountancy Europe supportive if done in an "economically sensitive" way – be two ends of the same strategy? It has been speculated that the extreme opposition from the US business lobby makes the position of the more neutral-seeming accountancy group look moderate, thereby shifting the apparent middle ground.

BUSINESS LOBBIES REPRESENTING TAX AVOIDING MULTINATIONALS GET BUSY

- After the Parliament's Joint Committee produced their March 2017 draft report containing all proposed amendments (but before it voted on them in June 2017),[157] Brussels corporate lobby heavyweight **BusinessEurope** wrote a scare-mongering letter to the chairs of the Parliament's ECON and JURI committees. It claimed that public CBCR "would damage the attractiveness of the EU" for investment, thereby reducing corporate tax income and growth.[158] It warned that disclosed tax information would be susceptible to "misguided interpretation" by the public. And it threatened that the "Parliament's proposal to lower the Commission's threshold of EUR 750 million to 40 million may now put even more EU companies at a competitive disadvantage".
- **BusinessEurope** represents the interests of multinationals that benefit from the lack of transparency that has enabled tax avoidance to flourish – with the help of intermediaries – so well, for so long. Its Tax Policy Working Group is chaired by Krister Andersson,[159] a Tax Policy Adviser at its Swedish member, the **Confederation of Swedish Enterprise**.[160] It is perhaps noteworthy that two of Swedish Enterprise's tax advisers recently joined from **KPMG**.[161] When asked, BusinessEurope said they do not make a list of the Tax Policy Working Group's members publicly available,[162] but that they come from BusinessEurope's member federations (examples include Germany's **BDI**, whose President spent 13 years at **EY**[163]) and its partner companies[164] (examples include **Accenture**, the management consultancy that split from Arthur Anderson).
- Before it voted on the draft report the Joint Committee was also targeted by a joint letter from 12 big business lobby groups, including BusinessEurope's national members the **Federation of Austrian Industries**, German **BDI**, French **MEDEF**, Belgian **FEB/VBO**, and Italian **Confindustria**.[165] In the letter they said disclosure to the public of commercially sensitive information "would put EU companies at a competitive disadvantage" resulting

in "less markets, less investment and less employment". They added that the "inevitable result" of public CBCR would be "inaccurate comparisons, erroneous interpretations, and wrongful accusations against European companies". Perhaps they were hoping that MEPs would accept that the public they represent is not clever enough to understand where corporations are paying their taxes, if anywhere at all.

- French big business group **MEDEF** invited MEP assistants and advisers to a "working session" in April 2017 on public CBCR's impact on companies, at which the tax directors of Danone, Renault, and L'Oréal would present its risks and "practical implications". The accompanying MEDEF briefing stated that "all data disclosed by the taxpayers should be subject to professional confidentiality", and gave hypothetical examples of how public disclosure of sensitive information would disadvantage multinationals.[166] MEDEF and the Big Four are certainly not strangers: **KPMG** has a partnership with **MEDEF**,[167] **PWC** has co-hosted events with MEDEF and sat on its committees,[168] whilst **Deloitte** and **EY** co-publish non-financial reporting guides with MEDEF.[169]

With all these dire warnings raining down on them, in June 2017 the Joint Committee voted in the "commercial sensitivity" get-out clause, which may enable corporations to avoid a significant degree of public disclosure. It also voted out the lower threshold of €40 million (rather than €750 million) turnover for the reporting requirements, which would have ensured wider coverage. After so many threats of near economic collapse if the public gets to see where multinationals are (not) paying taxes, it is perhaps unsurprising many MEPs accepted the "commercial sensitivity" clause as an apparent middle ground. The amendments were adopted by Parliament in the July 2017 plenary, and the final directive still awaits agreement in the Council (as of June 2018). What is perhaps most astonishing about the level and success of all this corporate lobbying is that some of the most vehement efforts to undermine public CBCR came from members of the Commission's own Platform for Tax Good Governance (see 2.3), namely **AmCham EU**, **Business Europe**, **BDI**, and **MEDEF**, whom it has chosen to advise it on how to tackle tax avoidance. Both **AmCham EU** and **Accountancy Europe** – despite their different opinions in public – are represented on the Platform by known tax-avoidance intermediary **PWC**.

3. Conclusion

In times of austerity and multiple crises – including the wake of a financial crash the Big Four played no small part in – corporate tax avoidance is an issue of keen public interest. Huge sums of money are being hidden offshore by corporations, at the same time as public budgets are being slashed and starved of money in the global North and South.

...the Big Four accountancy networks, have been actively seeking to influence the EU's policy agenda to tackle tax avoidance...

Scandal after scandal keeps the issue of tax avoidance in the news, from LuxLeaks and the Panama Papers, to individual investigations into the tax affairs of corporate giants such as Apple, Amazon, and Starbucks. The EU is attempting to coordinate across member states to tackle the problem, but the measures proposed fall far short of the task, as illustrated by the major loophole introduced into the public CBCR proposal by MEPs.

Tax avoidance intermediaries, notably the Big Four accountancy networks, have been actively seeking to influence the EU's policy agenda to tackle tax avoidance, just as they successfully influenced that of the OECD. What's more, the Big Four have had quite a few helping hands, not least, still being allowed to sit on expert groups that advise on tax avoidance. Additionally they have been hired by the Commission to provide preparatory studies and analysis on tax-related issues. They also benefit from a completely normalised revolving door between Big Four personnel and EU and member state officials. And they've helped themselves too, working through various lobby groups and vehicles to send (variations on) the same messages. And some of these groups, like the ECG, have been specifically asked by the Commission for input on tax-related matters.

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As public services are squeezed by austerity, the missing billions in tax revenue have real life impacts, depriving healthcare and education systems from much needed public money.

Is it therefore surprising if the EU's efforts – and international ones – to tackle corporate tax avoidance aren't working? As the Tax Justice Network notes, "the Big Four still play an important role in most, if not all, key bodies that develop international accounting standards even though their advisory services on tax avoidance is the core of the global tax avoidance industry".[170] As Tove Maria Ryding from development NGO network Eurodad says, "it doesn't make sense that big accounting firms who have helped multinational corporations dodge billions of euros in tax payments, can at the same time get paid large amounts of tax payers' money doing consultancy work for governments"[171].

"it doesn't make sense that big accounting firms who have helped multinational corporations dodge billions of euros in tax payments, can at the same time get paid large amounts of tax payers' money doing consultancy work for governments".

This has been echoed in a hearing of the European Parliament's Money Laundering, Tax Avoidance and Tax Evasion (PANA) committee, on the role of intermediaries as revealed in the Panama Papers. After challenging PWC over its role, Irish MEP Matt Carthy asked: "How can the Big Four justify the conflict of interest between advising multinationals on how to avoid paying tax, while at the very same time playing a major role in designing states' tax laws?"[172]

Politicians and policy-makers, in the Commission and member states, need to stop listening to the tax avoidance 'enablers' as if they are objective or even legitimate voices in discussions on how to stop corporate tax avoidance. To date, the goliaths of the tax planning world – the Big Four – have flourished in a policy-making culture that allows them an opaque but pervasive presence. They are behind-the-scenes, seemingly omnipresent, but certainly not benevolent. They sell and profit from schemes that deprive governments around the world of billions in tax revenue, pushing the burden onto those who can least afford it. This is unjust. As public services are squeezed by austerity, the missing billions in tax revenue have real life impacts, depriving healthcare and education systems from much needed public money. This is immoral. The wriggling out of the tax laws that apply to everybody else in a democratic state shows a disregard for citizens.

Want corporations to pay all their taxes?

It's time to kick the Big Four out of policy-making on tax avoidance

3.1 Recommendations

The evidence provided within this report, and as documented by numerous other research projects, underlines how the tax avoidance industry has been using its privileged position within the regulatory process to hold back progress and ambition in tackling the problem.

Similarly, the World Health Organisation (WHO) has come to realise that the influence of the tobacco lobby was holding back the ambition of tobacco control measures. As the commercial interests of the tobacco industry were in irreconcilable conflict with the interests of public health policy-making, the only solution was to create a firewall between tobacco lobbyists and public health officials in order to protect public interest policy-making from vested and financial interests. Known as Article 5.3 under the WHO Framework Convention on Tobacco Control, the introduction of a firewall is applicable to all signatories of the agreement, including the European Commission.

It is clear that there is an irreconcilable conflict between the commercial interests of the tax avoidance industry – the Big Four and other intermediaries – and the public mandate of the EU to crack-down on tax avoidance. Therefore in order to deliver an ambitious programme of tackling tax avoidance that the public expects and deserves, EU tax policy-makers should be protected from the harmful influence of the vested interests of the tax avoidance industry.

The specific details of the firewall which would protect anti-tax avoidance policy-making from the tax avoidance industry – ensuring those profiting from it are not advising on it – would need to be defined through public debate. However it looks, the firewall would undoubtedly affect all parts of the regulatory process and could include the following and more:

- PWC would no longer be able to sit on the Platform for Good Tax Governance
- The Big Four would no longer receive public contracts for tax-related studies and impact assessments
- Privileged access would come to an end
- Tougher rules would be introduced regarding the revolving door between tax intermediaries and the European institutions, including on secondments and internships.

For a firewall to be effective, there would need to be much greater transparency (about both lobby meetings held, and about the decision-making process itself) in the Commission but also in the Council of the EU and the 28 member states' Permanent Representations in Brussels. The principle of the firewall must be that those with a commercial or vested interest in promoting tax avoidance should not have a role in guiding the EU crack-down on tax avoidance. Instead, governments and public authorities should build-up their own, or independent, research capacity to work on tax and audit matters.

Box 8. Green MEPs demand tough action on the Big Four

The European Parliament's Green Group have made important proposals for reducing the influence of the Big Four on EU tax policy. These include the "separation of audit and consulting activities of accounting firms or financial and tax services providers"; a demand for an inquiry to investigate the market dominance of the Big Four within the sector; and the "adoption of a clear definition of conflict of interests and robust policies to prevent actors at risk of such conflicts of interest of being active members of any expert or advisory body".[173]

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