

# It's the principle, not the number, that matters in the...

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No one knows how much back tax Ireland will be ordered to collect from Apple today, but [no one now seems to doubt that the order will be made.](#) To be candid, barring the need for the quantum to be sufficient to be noticed the amount does not matter as much as the principle in this case.

At stake here is the right (or not) of a state to provide an unfair competitive advantage to a particular corporation. This is something we know was prevalent in the past. Ireland, to my knowledge, offered incentive packages that were individually negotiated during the 1980s depending on how much the company in question might bring to the country. A tax deal would seem to have been part of that package in Apple's case. It cannot have been alone.

Let's not pretend that this activity has ended: we know Luxembourg perpetuated it until relatively recently.

And we know many developing countries use such deals as an active part of their Foreign Direct Investment programmes, offering tax incentives that last for decades in some cases.

So what is wrong with such deals? There are three core issues that lead to one over-arching concern.

The first is that the deal was secret: the people of Ireland were unaware of the way in which their country was being used to secure a company a commercial advantage. This shatters all conceits of accountability for both government and companies and clearly opens up the possibility of corruption, although there is no suggestion of any in this case.

Second, the arrangement was very obviously selective: there is no evidence of it being widely repeated. This meant all did not stand equal before Irish law and this contravenes every principle of justice.

Third, the arrangement is very obviously discriminatory and so anti-competitive. It is the most basic principle of economics that if markets are to work to best effect that a level playing field must be provided to all participants so that they compete on the basis of their ability to provide goods and services that people want and not on their ability to secure unfair competitive advantages from a government. The Apple deal clearly did not comply with this principle.

This then leads to the over-riding issue of significance in this case, which is whether or not a state may promote unfair competition by distorting market rules in favour of particular participants. More broadly it is about whether tax competition is in fact a meaningful and desirable concept or is in fact an anti-market activity.

It has long been the contention of tax justice campaigners that tax competition is a misnomer because it is actually akin to tax war between places that exploit the power of the state to legislate in ways designed to undermine the regulation of other jurisdictions with the intention of distorting competitive markets, with all this being hidden behind a convenient veil of secrecy that the state permitting the abuse is able to provide. There is then nothing pro-market about this activity and it can only be defended by those who think that market abuse leading to monopoly power, the reduction in consumer choice and the making of excessive profit at cost to society at large is fair.

A century ago the USA recognised all the dangers in monopoly power. Now it seems all too willing to line up to defend corporate abuse.

So much for the US being the supporter of free markets. It only seems to support large companies against small ones, the tax avoider against the tax compliant and, by default as a consequence, the established company against the new entrant and the company against the consumer.

In contrast, the EU is very clearly standing up for fair competition.

This is what this case is about and it's why the EU must win it. Unless it does abuse will continue to get its way. And it's that abuse that rightly fuels the anger of large numbers within growing disaffected populations right now. They know there has to be one law for all. Including Apple.