

The Apple tax case will put globalisation on trial

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Apple will appeal yesterday's ruling from the EU that requires it to pay \$13 billion of back tax to Ireland.

So too, come to that, will Ireland.

As a matter of fact both have to. The necessity does not arise for any legal reason: indeed, I think the chance of their legal success is remote. Instead their need arises because each sees itself as representing a powerful interest group within the forces of globalisation.

Apple will, even if it will not say so explicitly, see itself as the representative of all those multinational corporations that have believed it their duty to arbitrage tax and other regulation to minimise their costs to supposedly maximise shareholder returns and to actually provide the basis for paying astronomical executive bonuses.

They have seen tax haven activity as an integral part of this process. Years of familiarity with the games that tax lawyers play has meant they have ended up thinking there is nothing unusual with headquarters companies that have no staff or apparent trade recording vast amounts of profit and paying no tax on it anywhere. They pretend that they cannot even see what the problem with that might be. Apple's appeal will then be about the right to create legal fiction until such time as the law no longer applies, as was the case in point that aggrieved the EU so much.

Ireland's appeal is different. It is about the right of a political elite to so effectively capture a democracy that a place is not run for the benefit of the people of that jurisdiction but instead for the benefit of a small, wealthy, international elite and the companies that they manage, with which elites' shoulders those local politicians want to rub. Ireland's government will in this sense see itself as the representative of all tax havens and of those politicians who have such contempt for their electorates that they can turn down â,¬13 billion of taxes.

What that means is that when these appeals happen, as surely they will, what will really

be on trial will be globalisation itself. Globalisation is the market based expression of the ideology of the Washington Consensus. It was always intended to favour a few, increase inequality, buy favour wherever it could find it, capture legislatures for its own purposes when that was necessary and create spaces veiled in secrecy where the rule of law that applied to the little people could be circumvented by the few. This is precisely why tax havens had to exist: they are not an accident in their modern form. They are instead a deliberate part of a design.

And you can see why Tim Cook for Apple and Michael Noonan for Ireland are angry. The EU has had the temerity to expose their game. It has said competition matters. It has said the rule of law matters. Worse, it has said there must be a level playing field as the economic theory of markets suggests is essential when for so long the supposed high priests of market forces have believed that the playing field must be tilted in their favour. Everything they have stood for, all the games they have played and all the belief in their right to be advantaged at cost to others has been exposed by the EU as not just immoral but actually illegal because it compromises the basic premises of market economics to which they too think they adhere. They have been called hypocrites. And it hurts, a lot.

Which is precisely why they will appeal the decision. Their pride will demand it.

And that is also precisely why they must lose.

Few would have expected it, but the EU has put globalisation on trial. And it has every chance of winning. The world will never be the same again if it does. But it will be a great deal better for it.