OpenLux proves that non-compliance remains the game in ...

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A new series of tax haven disclosures by media organisations began yesterday, the Tax Justice Network summarises it like this:

OpenLux is a join investigation into Luxembourg's beneficial ownership register conducted by the French daily Le Monde, SÃ¼ddeutsche Zeitung, the journalist network Organized Crime and Corruption Reporting Project (OCCRP), the Belgian newspaper Le Soir, the Luxembourg weekly Woxx and the American media group McClatchy, which publishes the Miami Herald, and others that also took part.

As they add:

What makes OpenLux so striking is that it's not a leak from a shady service provider, but a deep dive into public government data that had been made unwieldy to connect dots with. Luxembourg should perhaps be commended for providing better public access to its beneficial ownership register than most other countries, but the fact remains that today's revelations only came to light once journalists laboriously analysed the data and linked it up with other public records. This speaks volumes about the severe shortcomings of not just Luxembourg but the many governments, including across the EU, that have been reluctant both to publish and to employ beneficial ownership data despite its evident power in the fight against tax abuse, money laundering and financial crime.

They also note:

OpenLux makes two things clear. First, for beneficial ownership transparency to be useful at all, it must be made publicly available so that society can hold wrongdoers and government to account. Second, financial secrecy remains a central pillar of Luxembourg's economy. Financial secrecy keeps tax abuse feasible, drug cartels bankable and human trafficking profitable. Luxembourg must put an end to its financial secrecy and it can start by closing loopholes in beneficial ownership registration, financial disclosure and tax ruling disclosures, and by closing down companies of investors that fail to comply with transparency requirements.

I have to confess none of this is terribly unexpected. I can offer three reasons.

The first is UK experience. Since equivalent information was required in the UK and the company annual return filed with the Registrar of Companies was replaced by the supine annual confirmation statement the quality of the information provided here has gone down, considerably.

At one time it was at least possible to determine the legal ownership of companies in the UK. Now that is very hard to do, because complete shareholding listings need no longer be filed on public record for UK companies. That is in itself a massively retrograde step. And once it is possible to miss out whole chunks of disclosure, legally, then the possibility of abuse skyrockets simply because the basic control mechanism that requiring 100% disclosure imposes has gone. As a result the beneficial ownership regime in the UK has taken us backwards and significantly increased the probability that UK companies are used for illicit activity.

Second, if that is the case in the UK, which does at least have a central registry of company data, then it was much more likely to be the case in a place like Luxembourg which has always traded off being a secrecy jurisdiction.

Third, I am afraid that this was predictable, and I always felt it likely. I am going to be critical of some tax justice campaigners here (and there are exceptions, the Fair Tax Mark being a notable one). Because many now have little experience of tax, accounting or regulation, however well-meaning many are (and they are, without a doubt) they do not understand either basic control mechanisms or how they can be abused. So, for example, they tolerated thresholds below which disclosure was not required when campaigning for beneficial ownership disclosure when none should have been accepted.

What is more, they argued for beneficial ownership disclosure but have never made having full accounts on public record a demand of at least equal importance. The result is that all too often beneficial ownership of a company, the scale of whose activities are unknown, is the best possible (and even then, quite possibly unlikely) outcome of their demands, which is why I have never shown much support for their campaigns on this issue.

We need five things from company registries:

* The names of all registered companies;

* Information on where these companies are, and not just a legal address;

* The names of all the beneficial owners of these companies and proven identities of the material owners (I suggest anyone owning more than 2%);

* The names of directors;

* The accounts of the company, in full, as supplied to shareholders or, if there are none, the directors.

This has not been the demand. It would help if it was from now on.