THE APPLE-IRELAND TAX CASE: THREE STORIES ON SOVEREIGN POWER

THEODORE F. DISALVO*

On December 2, 2017, activists protested several Apple stores throughout France.[1] Members of the French unit of the Association for the Taxation of Financial Transactions and Citizen's Action occupied multiple French Apple stores demanding Apple pay its taxes.[2] One protester stated "Apple must stop denying the tax practices highlighted by the European Commission's investigation, withdraw its appeal to the European Court of Justice and pay its fine of 13 billion euros as quickly as possible."[3]

The purpose of this article is to use the Apple Ireland Tax litigation as a case study to explore the complexity of power relationships between three competing sources of sovereignty: the corporation, the nation-state, and the international institution. In order to do this, I will first briefly explore the procedural, factual, and legal background of the Apple-Ireland tax litigation with the European Commission and then examine the sovereign power relationship of the nation-state of Ireland, the multi-national corporation of Apple, Inc. and the European Union. The article will explore three possible stories of the competition between these three sources of sovereign power: first, that corporate sovereignty has replaced nation-state sovereignty as the

* Duke University School of Law, J.D., *expected* 2018; University of St Andrews, M.Litt in Moral, Political, and Legal Philosophy, 2015; Washington College, B.A. of Political Science and Philosophy, 2014.

1. Barbara Kollmeyer, *Shouting 'Pay your Taxes', Activists Occupy Apple Retail Stores Across France*, MARKETWATCH (Dec. 2, 2017), https://www.marketwatch.com/story/shouting-pay-your-taxes-activists-occupy-apple-retail-stores-across-france-2017-12-02?siteid=rss&rss=1.
2. *Id.*
3. *Id.*

most important source of sovereign power in the international regime; second, that corporate sovereignty has not overpowered nation-state sovereignty; and third, a middle ground approach that suggests the picture is much more complex and dynamic than either previous position. Ultimately, I will conclude that the third approach is the most accurate and useful narrative regarding competition between sovereign powers.

I. PROCEDURAL HISTORY AND BACKGROUND

The procedural history of the Apple-Ireland tax case stretches back a few years. A quick overview of relevant facts and legal background that led to the case will be helpful in understanding its controversy. This background takes only a high-level view of the case. It focuses on the corporate structure of Apple in Ireland and the arguments made by the European Commission in deciding to hold Ireland accountable for unpaid tax by Apple.

This dispute traces back to May 21, 2013, when a U.S. Senate subcommittee asked Apple to testify about its various tax programs as a part of a broader investigation into corporate tax loopholes.[4] Within three weeks of Apple's testimony on June 12, 2013, the European Commission ("Commission") sent a letter to Ireland requesting information on Ireland's tax ruling practice with respect to Apple.[5] This letter focused on three Apple subsidiaries: Apple Operations International ("AOI"), Apple Sales International ("ASI"), and Apple Operations Europe ("AOE").[6] These three subsidiaries were also the focus of the Senate subcommittee hearing three weeks earlier.[7] Ireland replied to the Commission in July, providing the requested information.[8] On October 21, 2013, the Commission requested that Ireland provide the rulings issued by Irish Revenue in 1991 and 2007 that gave preferential tax treatment to Apple subsidiaries ASI and AOE, with specific focus on the reports of the companies' tax advisor.[9] The Commission further requested information on all Apple companies' tax residents in Ireland, including all tax returns of these companies for 2010, 2011, and 2012.[10]

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4. Connie Guglielmo, *Apple, Called A U.S. Tax Dodger, Says It's Paid 'Every Single Dollar' of Taxes Owed*, FORBES (May 21, 2013), https://www.forbes.com/sites/connieguglielmo/2013/05/21/apple-called-a-tax-dodger-by-senate-committee-apple-says-system-needs-to-be-dramatically-simplified/#1991747c3384.

5. 2017 O.J. (L 187) 1.

6. *Id.*

7. Allison Christians, *Friends With Tax Benefits: Apple's Cautionary Tale*, 78 TAX NOTES INT'L 1031, 1032 (2015).

8. O.J. (L 187), *supra* note 5, at 1.

9. *Id.* at 2.

10. *Id.*

Having received this information, the Commission informed Ireland via letter on March 7, 2014 that it was investigating whether the tax rulings issued by Irish Revenue in 1991 and 2007 for ASI and AOE constituted new state aid.[11] On June 11, 2014, the Commission decided to open a formal investigation into the 1991 and 2007 tax rulings "on the grounds that those rulings could constitute State aid within the meaning of Article 107(1) of the Treaty" [the Treaty on the Functioning of the European Union].[12] This formal declaration of investigation is referred to as the "Opening Decision."[13] After various back and forth communications between the Commission, Ireland, and Apple over the course of the next two years, the Commission concluded on August 30, 2016, that Ireland gave undue tax benefits of approximately $14 billion USD or €13 billion to the Apple subsidiaries operating in Ireland.[14] Having not paid the required amount, the Commission then referred Ireland to the European Court of Justice on October 4, 2017, for failing to recover from Apple illegal state aid as required by the Commission's decision a year previously.[15] Currently, Apple and Ireland have both appealed the Commission's decision.

Like most multi-national corporations, the structure of Apple as a corporation is complex. As mentioned above, two Apple subsidiaries, ASI and AOE, are the specific focus of the Commission.[16] Both are incorporated in Ireland, fully owned by the Apple Group, and are ultimately controlled by the U.S. parent corporation, Apple, Inc.[17] These two subsidiaries mainly use Apple's intellectual property to sell and manufacture Apple products, such as iPhones and Mac computers, outside of North and South America.[18] ASI and AOE primarily sold to the European market.[19] ASI and AOE had a "cost-sharing" agreement with Apple, Inc., where ASI and AOE would make yearly payments to the Apple parent corporation in the United States to fund research and development costs conducted on behalf of the various Apple subsidiaries.[20] Each year, ASI and AOE would make the payments back to

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11. *Id.*
12. *Id.*
13. *Id.*
14. European Commission Press Release IP/16/2923, State Aid: Ireland Gave Illegal Tax Benefits To Apple Worth Up To €13 Billion (Aug. 30, 2016), http://europa.eu/rapid/press-release_IP-16-2923_en.htm.
15. European Commission Press Release IP/17/3702, State Aid: Commission Refers Ireland To Court For Failure To Recover Illegal Tax Benefits From Apple Worth Up To €13 Billion (Oct. 4, 2017), http://europa.eu/rapid/press-release_IP-17-3702_en.htm.
16. European Commission Press Release IP/16/2923, *supra* note 14.
17. *Id.*
18. *Id.*
19. *Id.*
20. *Id.*

the parent Apple, Inc., and deduct this expense from their profits.[21] Apple set up their sales in Europe such that customers were contractually buying products from ASI in Ireland rather than the stores that physically sold the products to customers, thus creating a situation in which all European sales and profits from these sales were directly in Ireland.[22]

Ireland and ASI agreed to a method to calculate internal allocation of profits starting with the 1991 tax ruling by Irish Revenue with Apple, followed by an update in 2007 to the agreement.[23] This allocation of profits was significant given that all European sales and profits were flowing through Ireland and ASI. The agreement entitled a split of profits for tax purposes in Ireland, where under the agreed method, most profits were allocated to a "head office" of ASI that was not located in any country and had no employees or location, while a minority of profits were allocated to the Irish branch of ASI.[24] Under the Commission's calculation, ASI recorded an effective tax rate of approximately 0.05% in 2011, decreasing to 0.005% in 2014.[25] This system and structure of tax avoidance was almost identical to the other Apple Ireland subsidiary, AOE.[26]

The issue at the center of this tax agreement between Apple and Ireland is whether such an agreement constituted "state aid." State aid is described in Article 107 of the Treaty on the Functioning of the European Union (TFEU) as "any aid granted by a Member State or through State resources in any form whatsoever *which distorts or threatens to distort competition* by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market."[27]

Built within this article is the "arm's length principle." In order to determine if state aid has been granted to a private corporation, it is necessary for the Commission to compare the agreement of tax allocation between Ireland and Apple to an "ordinary tax system, based on the difference between profits and losses of an undertaking carry its activities under normal market conditions."[28] The normal market conditions are calculated by

21. *Id.*

22. European Commission Press Release IP/16/2923, *supra* note 14.

23. *Id.*

24. *Id.*

25. *Id.* For example, in 2011, SASI had recorded profits of approximately €16 billion, but under the Irish Revenue rulings, only had a taxable base of €50 million, thus leaving €15.95 billion in profits untaxed.

26. *Id.*

27. *Id.* (emphasis added).

28. European Commission State Aid Ireland 2014/C 369/04, 2014 O.J. (C 369) 32.

looking at transfer pricing established at an arm's length.[29] Here, the taxable base was less than the tax system would calculate from the correct implementation of the arm's length principle, thus providing a select advantage to the Apple subsidiaries.[30] Further, the method used by Irish Revenue to internally allocate profits within ASI and AOE gave an undue advantage under the state aid rules of Article 107.[31] According to the Commission, this internal allocation of profits had "no factual or economic justification."[32] Having reached the conclusion that Ireland was giving improper state aid to Apple through their subsidiaries ASI and AOE, the Commission set out to calculate the value of the undue competitive advantage Ireland gave to Apple.[33] Ultimately, the Commission calculated €13 billion ($14 billion USD) in unpaid tax that Ireland must recover from Apple.[34]

Since this ruling, Ireland has yet to recover the unpaid tax from Apple. On October 4, 2017, the Commission referred Ireland to the European Court of Justice for failing to recover the illegal tax benefits from Apple.[35] Ireland had four months after the decision was reached on August 30, 2016 to recover the unpaid tax and failed to do so.[36] Instead of recovering the unpaid tax, Ireland has appealed the Commission's August 2016 decision to the European Court of Justice.[37] Apple has also appealed the decision, arguing that the European Court of Justice should annul the decision of the Commission from August 30, 2016.[38] In its appeal, Apple argues fourteen points of law against the Commission in the Commission's decision to hold Ireland accountable for a violation of Article 107(1) of the TFEU on improper state aid grounds.[39] The case is still ongoing.

II. SOVEREIGNTY

The Apple-Ireland tax case helps elucidate two interesting relations between different types of sovereign power-holders. First, the nation-state sovereign relationship to an international institution and its legal framework.

29. *Id.* at 33.
30. *Id.*
31. European Commission Press Release IP/16/2923, *supra* note 14.
32. *Id.*
33. *Id.*
34. *Id.*
35. European Commission Press Release IP/17/3702, *supra* note 15.
36. *Id.*
37. *Id.*
38. Case T–892/16, Apple Sales Int'l & Apple Operations Eur. v. Comm'n, 2017 O.J. (C 53) 37–39 (pending case).
39. *Id.*

Second, the relationship between sovereign nation-state and multi-national corporation, which has its own version of sovereign power. In order to explore these relationships, this section is broken down into four sub-sections. The first will briefly look at some of the arguments the nation-state of Ireland has made with respect to its own sovereignty to govern its internal tax law even though it is also part of the E.U. legal regime. After exploring this relationship, the following three sub-sections explore the relationship between the sovereign nation-state of Ireland to the multi-national corporation of Apple, which also has its own form of sovereignty. In these three sub-sections, I will draw on the framework spelled out by Stephen Cohen in order to tell three different stories of the sovereign relationships between Apple, Ireland, and the E.U.[40] First, Apple's corporate sovereignty overpowers Ireland's state sovereignty; second, Apple's corporate sovereignty does not overpower Ireland's state sovereignty; and third, that neither of these positions is correct. Ultimately, this section aims to use the Apple-Ireland tax case as a tool to explore arguments posited by this larger framework.

A. Irish State Sovereignty

The first question of sovereign power arises in the relationship between Ireland and the E.U. Ireland has its own sovereign power as a nation-state, but is also a member of the larger institutional and legal regime of the E.U.. As a member-state of the E.U., Ireland has agreed to a relationship of diminished sovereignty in some respects to achieve goals only available by ceding some authority to another institution. The question of the balance of sovereign power in this particular case is whether Ireland has ceded ultimate tax authority to the E.U. This begs the question: what does sovereignty actually mean? Sovereignty itself is a notoriously difficult term to define, but one commonly accepted definition is that sovereignty has two dimensions: internal and external sovereignty.[41] It might be said a State is "internally sovereign if it enjoys a *monopoly* as the ultimate authority regulating a range of social activities, including economic policies, within its country's borders."[42]

There are two distinct arguments that Ireland has internal sovereignty over its tax policy, and has not ceded ultimate tax authority to the E.U.. First, Ireland should have control over its own corporate tax policy because it has

40. STEPHEN D. COHEN, MULTINATIONAL CORPORATIONS AND FOREIGN DIRECT INVESTMENT: AVOIDING SIMPLICITY, EMBRACING COMPLEXITY 234 (2007).

41. *Id.* at 235.

42. *Id.*

ultimate internal sovereign power.[43] Second, the Commission is impinging on Irish sovereignty by amending Irish rules or policies on a retrospective basis.[44] Each of these arguments has been made by Irish officials[45] as well as outside administrators.[46] For example, former E.U. Competition Commissioner Neelie Kroes has argued that state-aid rules should not apply to tax matters.[47] "EU member states have a sovereign right to determine their own tax laws."[48] As a former commissioner, Ms. Kroes once led the Commission and is an authority on its operation. Ms. Kroes also points out that the Commission was using the state aid argument to rewrite the rules governing member states control over their own tax laws.[49]

The first argument Ms. Kroes makes is a classic internal sovereign argument that Ireland should have total control over its own internal tax policy. Under this view the dispute fits neatly within the definition of internal sovereignty because tax decisions are economic policies in a specific area. By this argument, while Ireland has ceded some sovereign power over economic decisions to the E.U., decisions over internal tax laws were not a power ceded to the E.U.. The second view articulated by Ms. Kroes that the Commission is using the state aid argument to reach back and rewrite internal member-state's tax laws can be articulated as the "retroactivity argument." This argument illuminates the concern that the E.U. is attempting to take sovereignty away from member-states such as Ireland after the fact. Ms. Kroes acknowledges that it is a fundamental principle of tax law (within the E.U.) that changes do not apply retroactively.[50] Such a retroactive change "would be fundamentally unfair and would harm competition, growth and tax . . . [a]nd it raises serious questions about legal certainty and the rule of law."[51] Yet, the Commission is continuing to pursue this argument in the ongoing litigation. Further, by imposing aggressive enforcement of state aid on Ireland, the E.U. is fundamentally shifting the power to make decisions of internal tax policy away from the Irish state.

43. JOE BRENNAN, *Getting to the Core of Europe's Case Against Apple and Ireland*, IRISH TIMES (Feb. 3, 2017), https://www.irishtimes.com/business/economy/getting-to-the-core-of-europe-s-case-against-apple-and-ireland-1.2960870.

44. *Id.*

45. *Id.*

46. Juliette Garside, *Apple Tax Ruling is Unfair, Says Former European Commissioner*, GUARDIAN (Sept. 1, 2016), https://www.theguardian.com/business/2016/sep/01/apple-tax-ruling-fundamentally-unfair-former-ec-competition-chief.

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

These two arguments are a snapshot into the broader arguments that former E.U. officials, Irish officials, and others are making with respect to Ireland's sovereign power to write its own internal tax laws. There is a complex dynamic of sovereignty between Ireland and the E.U., in which the state has ceded some, but not all, internal decision-making power to a larger institution. The concern over the attempted shift in sovereignty made by the E.U. has not only caused this specific litigation on Ireland's tax dealings with Apple, but has also caused other States to take positions on this power struggle. For example, Luxembourg has decided to stand with Ireland against this attempted sovereign power shift because the Commission is subjecting Luxembourg to litigation involving preferential tax treatment to other multi-national corporations,[52] while Poland has taken a stand against Ireland.[53]

B. Apple Sovereignty Did Influence Ireland

While Ireland and the E.U. are engaging questions of internal state sovereignty over tax decisions, another question is raised regarding Apple's role. Specifically, in what ways did Apple, as a multi-national corporation with its own source of power, act as a sovereign towards Ireland and the E.U.? This section explores the argument that Apple, as a corporation with its own version of sovereign power, had the upper-hand in influencing Ireland and led to their tax deal.

A corporation does not have the traditional sovereignty of a state, but a corporation can wield sovereign power both within a state and internationally. One broad definition of sovereignty laid out by Stephen D. Krasner explains that sovereignty exhibits four distinct characteristics:

1. Ability to control activities within and across a country's borders, including the movement of goods, capital, and people;
2. Possession of clear title to ultimate political authority within the state;
3. Ultimate arbiter of internal behavior, independent of any external authority; and
4. Formal diplomatic recognition by other nation-states that a government is able and entitled to exercise sovereign control of its territory.[54]

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52. *See* Joe Brennan, *Luxembourg to support Irish Appeal over Apple tax ruling*, IRISH TIMES (Mar. 28, 2017, 5:34 AM), https://www.irishtimes.com/business/economy/luxembourg-to-support-irish-appeal-over-apple-tax-ruling-1.3026878.

53. *See* Jack Power, *Poland will line up against Ireland Apple tax appeal*, IRISH TIMES (Dec. 5, 2017, 6:00 AM), https://www.irishtimes.com/business/economy/poland-will-line-up-against-ireland-in-apple-tax-appeal-1.3315417.

54. COHEN, *supra* note 39, at 235.

It is not necessary, however, for a state to simultaneously meet all four points to claim sovereignty.[55] Thus, if one applies these four characteristics to any modern multi-national corporation, it is evident that corporations share some of these characteristics of sovereignty – specifically the first and third. While the comparison is not necessarily clean or straightforward in every sense, a large multi-national corporation such as Apple has extensive control of their own activities within a state and has further extensive control of internal behavior. It is important to note that corporations do not necessarily have these sovereign characteristics with the same strength as a state sovereign. This is true because a state sovereign imposes a legal framework onto the corporation in that state's jurisdiction. Even so, multinational corporations arguably do hold some level of what could be called 'sovereign power'.

Given that multi-national corporations such as Apple share certain sovereign traits with states, the next step is to evaluate how a corporation can express some version of sovereign power to state sovereigns. The argument is that because of the rising market power of multi-national corporations, corporations are equal, if not greater, determinants of the economic destinies of nation-states than state governments.[56] In the case of Apple, the corporation's huge global wealth and market power might motivate a state to change its internal economic policies to capture some value from having Apple reside (at least in some way) in its jurisdiction. In this case, it was Apple negotiating with Ireland to find a tax regime that would be beneficial to both Apple and Ireland.

The position explored here is that, as a multi-national corporation, Apple *diminished* the power and role of the nation-state of Ireland. The Ireland tax decisions in 1991 support this assertion. These rulings, as detailed in Section 1, clearly point to a deal that was so extremely favorable to Apple as to funnel all European profits through the Apple subsidiaries in Ireland.[57] The likely story is that Apple and Ireland negotiated for this extremely preferential tax treatment for Apple in return for some tax revenue and job creation within the state.[58] Apple, as a corporate sovereign with control over where it wants to have jurisdictional presence, conceivably had other choices regarding where to place these subsidiaries. This power of choice created a relationship of significant power for Apple over the available states who were willing to listen and negotiate, as Apple would bring tax revenue and

55. *Id.*

56. *Id.* at 236.

57. European Commission Press Release IP/16/2923, *supra* note 14.

58. *See* Gaspard Sebag, et al., *The Inside Story of Apple's $14 Billion Tax Bill*, BLOOMBERG (Dec. 16, 2016), https://www.bloomberg.com/news/articles/2016-12-16/the-inside-story-of-apple-s-14-billion-tax-bill (noting that Apple has created 6,000 jobs in Ireland).

jobs. This story shows the strong incentive Apple might have been able to use as leverage to get this particular set of tax rulings that were so preferential to their bottom line. If one views this as the correct narrative, it seems clear that Apple had the upper hand in making decisions on territorial location for its subsidiaries with Ireland because it had the option to relocate elsewhere.

Another example that could be used to argue that Apple has increasingly stronger sovereign power to wield in the international realm is Apple's decision to appeal the August 2016 Commission decision as a separate party from Ireland.[59] This appeal might be evidence that Apple is engaging in activities that may been seen as traditionally reserved for governments.[60] In both examples, it does not seem unreasonable to argue that multi-national corporations are getting the upper hand in their relationships with sovereign states with respect to certain decisions that were ordinarily reserved for a state's sovereign power.

C. Apple Sovereignty Did Not Influence Ireland

An alternative to the narrative proposed above is that Apple did not wield sovereign power to influence Ireland. This view rests on a territorial understanding of sovereignty. It can be argued that "[e]ven the most ineffectual government has the unequivocal authority to physically block the entrance of a foreign subsidiary that is not welcomed."[61] This is evident in the Apple-Ireland tax case in the fact that Ireland could have chosen not to give Apple preferential tax treatment in the ways that it did. If Apple wanted a physical presence in Ireland, Ireland had discretion to allow or disallow ASI and AOE to incorporate as Irish corporations. This legal fact marks the upper-hand state sovereigns inherently have when dealing with corporations precisely because corporations are reliant on states for territorial access to their borders. But it is not only the physical entry that states can control with regard to corporate access. States can use other legal controls once the corporation resides in the state. For example, a government can force a subsidiary to leave or modify its actions by tightening regulatory controls, increasing costs of business, or subjecting executives to criminal law violations, amongst other things.[62] If the corporation does not want to play by the state's rules, it can leave.

Applying this to the Apple Ireland tax case, one may argue Apple was really beholden to Ireland. Specifically, Ireland could have prevented Apple

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59. Case T–892/16, Apple Sales Int'l & Apple Operations Eur. v. Comm'n, 2017 O.J. (C 53) 37–39 (pending case).

60. *See e.g.* COHEN, *supra* note 39, at 238.

61. *Id.* at 240.

62. *Id.* at 241.

from setting up shop in the first place, or required Apple to play by the same tax rules as other corporations. By deciding to give Apple a great financial incentive to move some operations to Ireland, Ireland used its own power to make an offer in order to best provide extra revenue and jobs for its citizens. Stated another way, Ireland decided to express its sovereign power in determining how Apple may access Ireland's territory and in what ways. Apple had a role in choosing and working with Ireland to come to an agreement, but Ireland had the final say in this arrangement. Thus, one could tell a story that in granting a deal to Apple, Ireland did not erode its state sovereignty, but rather reclaimed it.[63]

D. It Is More Complicated

Ultimately, the two positions expressed in the previous sub-sections do not express the whole, complicated story. While both Apple and Ireland have engaged in certain tax treatment preferential for Apple, it has neither completely eroded nor extended the relationship of power and sovereignty between a corporation and nation-state such that there is a clear winner or loser. Instead, this case provides us with an example of the economic reality of a global, interdependent business environment filled with corporations wielding more power than before, but still beholden to states in certain ways, such as territorial access. There are myriad reasons that can be raised to show that this story is more complicated than the story of either side getting the upper hand directly, but I will focus on two particular players that increase the complexity of the story: transnational actors and the European Union.

Transnational actors can be defined as "groups, businesses, coalitions, organizations . . . that are active in multiple countries and operate independently of any government."[64] These actors have come to exist because of the technological and communications advantages that have encouraged international activities while reducing operating costs.[65] It is not only the nation-state and the multi-national corporation vying for power amongst themselves, but also transnational actors bringing a plurality of voices and views into the discussion. These transnational actors have played a significant role in international law and public policy. One part of the Apple-Ireland story that has not been explored is the extent to which transnational actors played a role in the initial 1991 and subsequent 2007 Irish Revenue decisions. One can easily imagine the political coalitions within the Irish government or business groups who might gain increased

63. *Id.* at 242.
64. *Id.* at 244–45.
65. *Id.* at 245.

business from a local Apple presence petitioning the government both directly and indirectly for a deal to be made. These transnational actors likely played a strong role, at least internally within Ireland, in helping lead to the agreement between Apple and Ireland. A story of corporate and state sovereignty jockeying for position with each other leaves out the story of the jockeys, which must include transnational actors.

The most significant part of the story that is unaccounted for in either previous position presented above is the role played by the E.U. itself. Ireland made certain choices to cede or not cede sovereignty to the E.U. for various goals such as economic efficiency. In order to tell a full story of Apple and Ireland reaching a preferential tax agreement, some commentary is required regarding the role of E.U. law. Apple was not only reaching an agreement with Ireland, but also with E.U. law applicable to Ireland as a member-state. To state this proposition as a question, what role did navigating E.U. law play in the two agreements made between Apple and Ireland? An accounting of this would help alleviate some of the confusion of this litigation. At the heart of this story is the power struggle of sovereign power between Ireland and the E.U., and having a clear commentary of the role of E.U. law would only help illuminate and clarify the parties power relationships between each other. If one wants to therefore tell a full story of the sovereign power shifting between parties, one needs to tell a more complete story of the role of E.U. law in the two agreements between Apple and Ireland.

III. CONCLUSION

The story of Apple and Ireland's decision to reach a preferential tax agreement has caused both legal and public relations headaches for both. It is clear that this is not a purely legal dispute. Lying underneath the legal dispute is a complicated mix of sovereign power sharing and taking. Apple and Ireland engaged in a form of power sharing, between a corporate sovereign and a state sovereign. Yet the state has voluntarily given away certain sovereign power to a larger institution, the E.U. These three parties are engaged in creating and changing relationships in order that each might claim some benefit. For Ireland, more tax revenue and jobs created within the state. For Apple, a low tax jurisdiction to avoid high E.U. taxes. For the E.U., to claw back some tax revenue and potentially some sovereign power away from Ireland. It is this underlying dynamic that can be told as three different stories about the sovereign power relationship. What this litigation brings to bear is a clearer lens through which to view the sovereign power relationships between three distinct sovereigns. Ultimately, this article has only told part of the story about the sovereign relationships between Apple, Ireland, and the E.U.. The article aims merely to frame the issue, with the hope that it leads to more in-depth analysis of the relationships and the struggles of various types of sovereign powers in the Apple Ireland case and others like it.