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Can we prevent Policy Capture? Reflections about Public Interest in Business Decision-Making

- Easy Pieces -

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On March 30-31, I was invited to the OECD Global Anti-Corruption & Integrity Forum in Paris. I had prepared the following short piece to reflect on the theme of our panel: Policy Capture. Thanks to the wonderful colleagues at the panel and the moderator, the conversation took an unexpected turn, promoting intellectual honesty and emotional maturity. I was thrilled to feel the audience, during and after the panel, engaged in tackling these difficult subjects in a smart way, from the heart and inspired.

To benefit public interest while pursuing business interest is one of the greatest challenges of business decision-makers. For business actors, aligning the private and the public, the personal and the professional, the ethical and the profitable represent an ideal that all want to attain. For policy makers, sustaining such alignments and providing the conditions of their manifestation lie as at the source of their vocation. We as humans are all capable of thinking of ourselves and beyond ourselves, and our happiness is closely related with our capability to act both in our name and in the name of others.

And it is interesting to think that our ethical vulnerabilities, the mark of our experience around failing to combine our individual and collective motivations in an ideal way, are actually one of our core characteristics. Although everything lies in everything as a whole, we know that most of the time we are entrenched in one or the other of our motivations and sacrifice the other.

As human decision-makers, we must learn to live at the frontier of ourselves, the place where a line is drawn in the gray zone. Whenever Our ability to think, to communicate and to act at the frontier of business and public interest may in fact be one of the most important skills to face our human future. In some circumstances, business interests indeed collide with policy making aimed at public interest. To some extent, these situations question the very idea of democracy and market economy promoted by the OECD.

OECD Governance 🔲 @OECDgov · 30 mars
"People do #corrupt things because they are part of a system that tells them that it is ok to do so" Marc LeMenestrel
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Consider the following examples extracted from my recent research and assignments:

- Whenever the demand for fossil fuels grow, their price tends to remain high, leading to sustainable profits for extracting companies. So from this point of view, public policies aimed at promoting demand for fossil fuels are of the industry interest. On the other hand, they are not in the interest of reducing the consumption of fossil fuels.

- The Chief Scientist of a technology company receives early warning signals about the hazardous character of an advanced solution. He is having dinner with a former senior executives now working in the corresponding government agency. How could the regulatory dynamics be evoked?

- As a policy to reduce the incidence of some particular health issue is publicly discussed, a pharmaceutical company that sells drugs treating affected patients ponders on its lobbying strategy: should this policy be delayed?

- As a candidate for national elections advocates peace and partnership with a traditional enemy, the chairman of a defence contractor is reflecting on whether they should stop to finance the party of the candidate: is peace genuinely desirable to all?

These examples are typical of business ethical dilemmas where a business actor faces a decision that either favours his/her/its expected interest or the perceived general interest. Should one strictly apply the idea that the responsibility of business is to maximize profits, a decision against public interest would be prescribed. Business actors thus have the temptation to enter into "political activities" that influence policy makers against public interest (See our discussion with Julian Rode about Why Business fails to listen to Early Warning Signals about technological hazards).

In my experience of the classroom, it is undeniable that business actors are tempted to engage in actions that

capture public interest. And of course they sometimes do it. It is also interesting to note that they don't like it and are capable of perceiving the ethical issues that lie behind.

Lobbying, revolving doors, political party financing, and more structurally market commoditization of violence or of drugs or confidentiality of technological innovation are certainly not only good, they also have a dark side. The difficulty to speak about these dilemmas openly is a mere proof of the emotional difficulty that we face in admitting our guilt, our shame or our fear in the ultimate consequences of such practices.

In my experience, it is close to be a systematic opinion among business executives that the current dynamics is unsustainable. There is an obvious truth in the consideration that incentives can orient business behaviours against public interest. As a result, another temptation appears, and in particular among policy makers, which is to condemn these behaviours and their actors as "corrupted". Corruption becomes the "evil" that ruins the world and we should fight against corruption as a priority. We constitute two categories: good and bad actors and we divide ourselves once again, "us" in the good category, "them" in the bad.

If, as advocated in the OECD introduction to the issue of policy capture, citizens reject the current system that does not serve them, politicians must be corrupted for the system to sustain. There would be therefore no genuine fight against corruption without questioning the system. Moreover, not questioning the system would be a signal that no genuine effort against corruption is truly implemented. We would be once again in a game of words and the anti-corruption discourse takes the risk of a cynical and hypocritical intention.

To which extent OECD questions the system in which it plays a role? And if we take OECD core values as a concrete translation of what "system" means, the question therefore is:

Does OECD question, for instance, the search of economic growth as a political priority? Representative democracy as a political system? Or the extension of market capitalism?

These values are in fact at the core of an ideology that is not perfect and should not be advocated as such. Opening a constructive communicational space to discuss the frontier of these ideas is a must for tackling the issue of policy capture in a credible way.

Market capitalism has ensured the institutionalisation of an economic licence to operate for companies. However, democratic structures are attaining their limits at managing their political licence to operate. One may find the reasons for this in the transnational nature of the economic and financial power of business actors, a power that outmatches the national sovereignty of western democracies. Also, the aggregation of specific business interest creates suboptimal collective outcomes that threaten the welfare of the citizens as well as the ability of human societies to live in their natural environment.

If the distinction between business interest and public interest is not new, the current global situation calls for a new way of drawing the line in these grey zones. As a professor of Decision Making, teaching to business decisions makers and from time to time to policy-makers, I have been advocating and developing tools and methods to tackle business ethical dilemmas like to ones evoked above. It is with precaution that I share three skills that emerge from this experience:

Principle 1: Shadow and Light

Each decision-maker can train his/her/its ability to see the shadows casted by his/her/its own interest and hidden by his own moral justifications. One should be able to understand why one's own interest is in itself problematic and does not only include desirable features. There is a need for a systematic analysis of the ethical dimension of business actions. And it is interesting to note that such an analysis requires suspending our judgement so as not to analyze only what supports it, which should be seen as a prejudice. The courage to face one's own shadows helps to draw the line with less violence, towards others and also towards oneself. It also reduces bad faith argumentations where supposedly win-win approaches are mainly the result of impression management and cover up more important issues.

Principle 2: Dilemmas and Win-Win

Each decision-maker can develop his agility in navigating to see both sides of the frontier separating different interests. Of course, one should be able to understand the interest from one's point of view and from the others' point of view. It is then possible to formulate more precisely the dilemmas and the conflicts of interests, which are somehow always present. It is indeed interesting to note that not all win-win are genuine. As it is always possible to do better from the moral point of view, there is always somewhere a line to be drawn. Whether this is done in full conscience and in the respect of the sacrifices that it entails is a major skill to work out. And when, making the difficult choice of what is good for all, we end up discovering good surprises that are also in our private interest, thse win-win are a most formidable reward.

Principle 3: Collective Dream

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Decision-makers benefit from being invited to formulate an ideal solution. The power of dreams allows us to think beyond specific objectives. We should not limit our vision of the future and our conversations to what we think we can do. In fact, we need to create the conditions for emerging solutions to surprise us for the better and this is mostly happening in appropriate collective communicational settings.

Today, and especially in developed countries, it is my impression that the context favours business interest more than public interest in critical issues. This is detrimental to the harmonious development of societies. I thus concur with the intention to preserve public interest from business decision making. In line with the principle above, I am however reluctant to promote any confrontational way. The situation requires us to move to the next level and bring these dilemmas as the main subject of discussion. In this spirit, I suggest three directions for considerations:

- Business actors, be them companies, associations, lobbyists, individuals, should be invited to take positions in front of these dilemmas. As these positions affect the public interest, they should be public. As they affect their business interest, they should be included in their reporting. This should promote proactive business behaviours and create advantages for those who consider public actors their allies. It should be respectful of the immense difficulty for some actors to take a position.

- Policies as normative and prescriptive solutions may prevent our ability to invent new ways to combine business decisions and policy-making by trapping us in advocacy. We should learn to express without violence or judgement the main dilemmas that business decision-makers face at the frontier of business and public interest. Formulating and releasing to the public space such dilemmas in an objective manner, for example industry by industry will increase our capabilities to face the challenge our societies face.

- Business and policy-makers should gather in forums to build ideal solutions to the tensions inherent to the combination of national democracy and transnational market capitalism in the age of globalization. Beyond the market, there is a need for spaces where digital capabilities allow participative approaches to complement political representation. That would also help to harness the growing demand of citizens for a harmonious development, beyond profit maximization of companies and national economic growth.