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## **The Dark Side of Professions: The Big Four and Tax Avoidance.**

### **Abstract**

This paper uses discourse analysis to explore the construction of distinct framings of professional tax advice practice within the proceedings of a Public Accounts Committee (PAC): Tax avoidance, the role of large accountancy firms. We present two important contributions to understanding the dark side of professions. First, two opposing rhetorical framings of 'tax avoidance' are analysed. Metaphors are used by the PAC to exemplify the dark side of professions, including potentially transgressing the boundaries of what constitutes 'tax avoidance'. This is counteracted by the Big Four portraying an alternative market-oriented/ neo-liberal view of professions pursuing a societal good through dedication to promoting market competition. Second, we demonstrate the bridging between these micro-level interactions with broader cultural accounts, at the macro-level. We conclude with a discussion of the pertinence of this multi-level discursive interaction, within post-inquiry sensemaking, for understanding the 'dark side' of professions.

**Key words:** professions, Big Four, Tax avoidance, accountancy, discourse analysis, rhetorical framing, legitimating accounts, post-inquiry sensemaking and sensegiving.

“Major accountancy firms have become the unacceptable face of capitalism... Scratch the surface of any financial scandal or a tax dodge and the visible hand of major accountancy firms is highly evident.” (Mitchell & Sikka, 2011: 8)

“But the greatest thing by far is to have a command of metaphor. This alone cannot be imparted by another; it is the mark of genius, for to make good metaphors implies an eye for resemblances.” (Aristotle, Poetics, p.47)

## Introduction

Tax avoidance, tax planning and tax evasion<sup>1</sup> have become topics both for academic discourse (Sikka, 2003; Sikka & Hampton, 2005) as well as in publications aimed at the general public (Brooks, 2013; Murphy, 2013; Shaxson, 2012). Clearly, socially unacceptable tax avoidance has entered public awareness, especially so since the onset of recession, austerity and public sector retrenchment after 2008 (Sikka, 2013, 2014). Tax planning and tax avoidance are no longer simply a technical issue that is the preserve of accountancy firms; instead, tax avoidance has become subject to ‘moral story-telling’ (Boje, 1991, 2002; Gabriel, 2000; Whittle & Mueller, 2012): this means the application of moralising language, including notions of ‘wrong’, ‘harm(ful)’, ‘deadly’ (Mitchell & Sikka, 2013: 4), ‘villains’ and ‘victims’. However, it is necessary to point out that since the neo-liberal turn in the 1980s, the moral story that had been told is a different one, namely “that taxation is a burden—an affliction in need of ‘tax relief’” (Lakoff, 2014: 55).

From the political right, viewing taxation as an *affliction* was the dominant form of framing both in the U.K. and the U.S., at least until the financial crisis: only since 2008 have even those on the political right started to emphasize the moral failings of those who avoid taxes. The flip side is that those who had been lone voices before 2008, including Hugh Willmott, Prem Sikka and Austin Mitchell, have been able to shape the way things are being framed. Sikka & Hampton (2005: 326) pointed the finger of accusation to a “rapacious tax avoidance industry”, and Sikka bemoaned “the darker side of accountancy firms and whether in pursuit of profits their entrepreneurial energies too might be used for anti-social practices, including price-fixing, bribery, corruption, money laundering and tax avoidance/evasion.”

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<sup>1</sup> In order to avoid clumsy formulations, we often simply refer to tax avoidance from now on, when in fact we might mean a discussion of all three topics.

(Sikka, 2008: 269) We argue that such voices, whilst operating at the micro-level, can be seen to have broader leverage at the macro level, noticeably being both influenced by and also influential in shaping higher level cultural accounts. In this vein, our *paper is about how, in recent years, a multi-level rhetorical framing (Kuypers, 2010) has emerged that proclaims the dark side of professions in sharp contrast to the transcendental and uplifting values – health, truth, justice, prosperity – that Freidson (1988, 2001) and many others (e.g. Tawney, 1948: 94-5) have defined as constituting what is distinctive about professions.*

The dark side is exemplified by the charge “that Britain's corporation tax revenues are under relentless attack from several multinational companies and the global accountancy firms' mass production of tax avoidance” (Hansard, HoC: 3 Feb 2005)<sup>2</sup>. Furthermore, one could argue that this charge sheet motivated, at least in part, the 2013 investigation by the House of Commons *Public Accounts Committee (PAC), 'Tax Avoidance: The Role of Large Accountancy Firms'* which is the focus of our analysis here (hereafter referred to as the '2013 Tax Avoidance inquiry'). In this paper we conduct a discourse analysis of rhetorical framing (Kuypers, 2010), within this one specific PAC session, in particular focusing on metaphors, as put forward by the questioners and respondents, in order to demonstrate that two different rhetorical framings can be observed. Operating as micro level 'legitimizing accounts' (Creed et al., 2002) these framings draw on and influence antithetical high-level broader cultural accounts. An analysis of this multi-level discursive contest can inform our broader understanding of the contemporary role and status of the Big Four.

The so-called 'Big Four' Accounting Firms (Ernst & Young<sup>3</sup>, KPMG, Deloitte and PricewaterhouseCoopers (PwC)) benefit from a partially closed product market, i.e. in effect a *state-sanctioned oligopoly*. As such, some expert commentators are keen to remind the public that the Big Four are the beneficiaries of a privileged market arrangement (Sikka, 2008). This had traditionally been justified in terms of “idealised self-images” such as “claims of theoretical and practical knowledge, high

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<sup>2</sup> The 2005 debate was, in part, motivated by Arthur Andersen's role in Enron's spectacular downfall (eg the Guardian, 14/02/03; Coffee, 2002).

<sup>3</sup> The PAC session took place prior to the launch of the new global brand name of Ernst & Young, namely EY, as reported in a press release on 1<sup>st</sup> July 2013.

level of skills, ethical conduct and social responsibility” (Sikka & Hampton, 2005: 328). Post Enron, however, there have been observations of a “culture shift” and a “loss of professional values”, such as objectivity and detachment, and a move towards “hell-bent-for-leather” marketing (Coffee, 2006: 162)<sup>4</sup>.

Given that the field of audit is essentially a product of global competition, but, as a profession, also of *state regulation*, the argument has been made that the major players in the field need to be seen to navigate competitive threats and opportunities whilst playing by ‘the rules’ (Fligstein & McAdam, 2012: 76). By implication, they need to be guided by principles of professional ethics, in order to pre-empt, or pro-actively deal with “the regulatory skirmishes that occasionally disturb the cosy relationship between the accounting industry and the state.” (Sikka & Willmott, 1997: 155) Specifically, such intervention could take the form of an enforced break-up of the oligopoly, or the tighter regulation of the simultaneous delivery of additional activities, such as consultancy services or tax advice. Most importantly, however, and particularly in view of the recent debates around tax avoidance, in order for the public to trust the legitimacy and fairness of current arrangements, the Big Four *need to be seen* to be held to account (Mueller et al., 2015). Thus the need for public accountability, where professions are concerned, has even greater salience if professions are to maintain ongoing credibility.

In view of this need for holding professions to account we ask ‘what are the rhetorical processes constituting the inquiry process as instigated and carried out by the House of Commons in the UK?’ We agree with Miller and Rose (2008: 109), for whom committees, inquiries, and commissions “render the actions and judgments of professionals governable in new ways”. Further, society and governmental bodies need to *make sense*, so that they can draw lessons and then *give sense*, for example in the form of a report, followed by new regulations (Gephart, 1992; Elliott & McGuinness, 2002). The discursive arena created within an inquiry process thus provides a state legitimated forum to deploy rhetorical strategies for holding professions to account.

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<sup>4</sup> Coffee specifically referred to KPMG when making this point.

As such, this paper's objective is to discuss the rhetorical framings that can be discerned by applying discourse analysis to a publicly available transcript of a PAC inquiry in the UK. We examine an interaction within such a sphere of categorization and influence, namely the PAC's 2013 Tax Avoidance inquiry, and we see *two distinct rhetorical framings developing incrementally and directly opposing each other*. Whilst one rhetorical framing is predicated on being able to draw a clear distinction between tax *evasion* and tax *avoidance* and describes selling tax avoidance schemes, as part of a free liberal market economy, the alternative rhetorical framing contests this distinction and contributes to an existing cultural account that paints the dark side of some of our professions. Extending the work of Creed et al. (2002) our analysis reveals that these two rhetorical framings constitute 'legitimizing accounts', which draw on and actively shape (such aforementioned) higher-order cultural accounts.

The remainder of this paper will proceed as follows. We now discuss relevant theory followed by a discussion of our methods and methodology. In the ensuing empirical section we show how metaphor is deployed as part of a suite of discursive tactics within two parallel and distinct rhetorical framings. Finally we will conclude by discussing the pertinence of this multi-level discursive interaction, whereby cultural accounts both construct and are constitutive of micro level discursive tactics, within post-inquiry sensemaking, for understanding the dark side of professions.

## **Theory**

"Officials of the modern state are, of necessity, at least one step- and often several steps-removed from the society they are charged with governing. They assess the life of their society by a series of typifications that are always some distance from the full reality these abstractions are meant to capture." (Scott, 1998: 76) For our present purposes, such state-sponsored categories are 'tax evasion', 'tax avoidance', 'tax planning': in theory, these categories can be neatly separated and clearly distinguished from each other, and can be reliably administered by professional service firms that, in turn, are guided by higher and societally approved values. However, when it comes to the practical application of these categorizations,

the practices on display appear to cast a long shadow on the acceptability of how these categories and distinctions are actually 'administered'. It is partly for the accountancy firms, partly for the tax office in way of shared responsibility of governance, to uphold and thus demonstrate the practicality of these categorizations, boundaries and distinctions. Notwithstanding this shared governance duty, the demarcation of such categories can be subject to discursive contestation (Hajer, 2009). As the principal governors of the 'tax advice' profession, we will briefly explore the respective discursive assets at the disposal of both accountancy firms, given their privileged status as a profession, and the PAC.

First, considered to be a traditional profession, accountancy / audit, like the classic professions of medicine, law and the clergy, bases its claim to be *justifiably* operating in a *market with restricted* competition, by "attaching their expertise to values with general cultural legitimacy" (Abbott, 1988: 16; Freidson, 1988), such as transparency, objectivity and rationality. Professions operate in quasi markets and, as full time occupations, need to fulfill the basic economic function of securing their incumbents' daily needs for social and material reproduction. But then there is more to it: this additional element, that is absent in regular occupations, is the claim by professions that they, both as individuals and as organizations, work towards the fulfillment of society's most cherished, transcendent, values and ideals, including salvation, justice, truth, prosperity and health (Parsons, 1939, 1951; Freidson, 2001: 122). Operating as a high-level cultural account, it is this *transcendent* claim that provides professions with the discursive resources for arguing their case that they should be treated differently from regular and more mundane occupations.

Second, the PAC can be viewed as a mechanism of 'distributed public governance' (Flinders, 2004; Miller & Rose, 2008; Eilifsen & Willekens, 2008) and as an extended arm of state administration endowed with the rhetorical means for holding powerful actors to account. We follow Hajer (2009: 54) in wanting to understand governance by "studying the contextualized interaction as a series of performances... [because] structures of power depend on their enactment for their effect." Indeed, the PAC process tasks its members with cross-examining professions on fulfilment of their duty to act 'in the public interest', as trusted custodians of tax advice. Thus, in addition to being a discursive resource at the disposal of professions,

the same transcendence claim can be drawn on by the PAC to rhetorically interrogate professions. As an example of a broader cultural account, resounding with Abbott (1988) and Freidson (1988), this claim dispenses the heightened impetus for ongoing accountability, where professions are concerned. Whilst the general deployment of discursive devices within inquiries has been the focus of significant scholarly attention (e.g. Gephart, 1993; Brown, 2000, 2004; Whittle et al., 2014a), the literature has neither explored this differential use of the transcendence claim, nor subjected the performative aspects of such ensuing professional accountability and rhetoric to adequate scholarly scrutiny. Next we present our theoretical approach on the active deployment of such discursive tactics as a form of rhetoric and means of sensegiving within post-inquiry sensemaking.

In order to address these lacunae, we analyse the proceedings of a *Public Accounts Committee* (PAC) in the U.K. This provides a situated discursive contest within which we investigate the discursive resonances with high level culturally diffused accounts: in this sense, focussing on one session does not amount to navel-gazing. Our perspective matches that of Hajer (2009: 56) whose “performance perspective does not assume the impact of context, whether it is a macroeconomic situation or the particular position from which a person argues, but searches for traces of that context in the interaction.” As an example of a state governance mechanism, the PAC can be seen in similar terms to a public inquiry. Both Parliamentary Committee inquiries and public inquiries have been common occurrences in the UK, originating in the “age-old British habit of dealing with difficult problems by establishing weighty committees of inquiry.” (Young, 1993: 413) This typically happens both in order to deal with issues of public concern, and in the wake of a major crisis event (Brown, 2000, 2004; Hancock & Liebling, 2004; Scraton, 2004), whereby the expectation is that “institutional and organizational learning can occur.” (Maitlis & Sonenshein, 2010: 557) Normally, business elites, or more generally, “organizational rhetors influence public policymaking by strategically selecting the optimal time and place to engage in rhetoric” (Conrad, 2011: 132). In contrast, *being called to appear* in front of an inquiry, or in front of the PAC, *allows them neither*.

Traditionally, rhetoric is defined as “speech designed to persuade”, a definition stretching from Cicero’s *De Oratore*, to Aristotle’s *Rhetoric* to Isocrates (Burke, 1950/1969: 49). Rhetoric presupposes a visible adversary, who is the source of its “competitive stress” (ibid 52) and makes “persuasion a distinct goal to be achieved by means of a specific strategy” (Ricoeur, 1978/1986: 10). In this paper, we acknowledge that “it is not just in high-profile public appearance that we see rhetoric operate” (Gottweis, 2012:22), but these are clearly important staging posts in the overall rhetorical process. Public policy “controversies proceed through debate, narrative, visual display, television, or Web 2.0.” (ibid). Our chosen ‘spectacle’ is a move in a broader rhetorical process: indeed, the rites and rituals of the PAC “constitute the dramaturgy” of authoritative governance (Hajer, 2009: 53). For us, rhetoric does not reflect parties’ ‘true’ positions or deeply held beliefs; instead, the rhetorical process “will be treated as a feature of the antagonistic relationship between versions: how a description counters an alternative description, and how it is organized, in turn, to resist being countered.” (Potter, 1996: 108)

Putting forward a frame in a rhetorical contest has also been theorised as *sensegiving*: indeed, the sensegiving literature (Gioia et al., 1994; Brown, 2000, 2004; Maitlis, 2005; Maitlis & Lawrence, 2007) acknowledges that a multiplicity of framings confront agents, who attempt to *make* sense; after processes of interpretation and negotiation, or “cycles of understanding and influence” (Gioia & Chittipeddi, 1991: 447), agents might then settle for a certain way of framing things. Major crises typically lead to a heightened need for sensemaking and sensegiving (Gephart, 1993; Maitlis & Sonenshein, 2010) and various studies have considered how discursive tactics are used to this end (e.g. Gephart, 1993) and the extent to which they succeed in both holding and being seen to hold relevant parties to account within inquiries (Brown, 2000; 2004). More specifically, two significant studies have considered the deployment of metaphor as a means of sensegiving. In their study on change in an academic institution, Gioia et al. elaborated their sensegiving theory by emphasizing that “(s)ymbols and metaphors are key to this process [of change; *the Authors*] [...], in part because their inherent ambiguity provides a bridge between



the familiar and the strange, thus fostering a sense of continuity while simultaneously facilitating change ...” (Gioia et al., 1994: 365).

In a similar vein, Huzzard et al. (2014: 194) discuss how the metaphor of the ‘aqueduct’ plays its part in a change project aiming at the implementation of ‘patient-centered care’ in a Swedish hospital. Where both sides will argue that their account is more credible, metaphors can be a useful method of sensegiving: they can be used in order to make one’s own account more convincing (Potter, 1996: 56) by linking the specific case in question to more commonly held knowledge or folk wisdom. “The essence of metaphor is understanding and experiencing one kind of thing in terms of another” (Lakoff & Johnson, 1980: 5) – a definition going back to Aristotle’s *Poetics*<sup>5</sup>. Thus, for example, in Huzzard’s (2014: 203) health sector case study, the metaphor of the *aqueduct* has the inference that highest priority should be given to effective care processes around the patient, exemplified as/ likened to the flow of water across the aqueduct, but this requires robust support structures underneath. When used in argumentative, dialogical settings, metaphors will be used by those who want to shift existing understandings, by giving new sense and by highlighting shortcomings within accounts provided. Turner suggests that we view policy arenas as “concrete settings in which paradigms [frames, the authors] become transformed into metaphors and symbols with reference to which political power is mobilized and in which there is a trial of strength between influential paradigm-bearers.” (Turner, 1974: 17)

Apart from these notable exceptions, to date few studies have explored the rhetorical deployment of metaphor as constituting the ‘dramaturgy’ of authoritative governance (Hajer, 2009: 53) operating both as micro level situated discourses and within broader meso and macro level cultural accounts. In particular, the implicit salience of such multi-level framing for holding professions to account or as a means of exoneration, deployed by professions themselves, is currently under-examined within the literature. In order to address this gap, following previous analyses of public texts (e.g. Brown, 2000, 2004, 2005), and further to examining the moral positioning at work in such texts (Mueller and Whittle, 2011), we focus on the

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<sup>5</sup> “Metaphor consists in giving the thing a name that belongs to something else” (Aristotle, *Poetics*, 1457b).

construction of opposing rhetorical framings of tax advice as a profession. Aligning with Creed et al. (2002) and Alexander (2011) we analyse how one specific micro-level discursive duel reflects the evolving contest between higher-order cultural accounts (or paradigms in Turner's words). To this end, our paper seeks to extrapolate and extend understandings from previous literature to exemplify the multi-level rhetorical framing of the dark side of professions within post-inquiry sensegiving.

### **Methods and Methodology**

As far as the accounting literature is concerned, our study is located in the interpretive, ethnographic and narrative traditions (Tomkins & Groves, 1983a, 1983b; Jönsson and Macintosh, 1997; Llewellyn, 1999; Macintosh, 2002). Whilst our data are not collected in a longitudinal, ethnographic approach, they are derived from *naturally occurring* events, i.e. not procured from staged episodes or events, such as interviews, which are arranged by the researcher for the purpose of research. In line with Gioia et al. (2013: 17), we were keen to develop our concepts as closely as possible to the protagonists' own understanding: this precluded imposing pre-formed theoretical concepts and instead necessitated listening closely to the meanings that the protagonists themselves attach to the processes.

Adopting such a stance, ethnomethodologically informed studies of jury and courtroom interactions (Pollner, 1987/2010; Moerman, 2011; Maynard & Manzo, 1997) and of testimonies at public inquiries (e.g. Lynch & Bogen, 1996; Gephart, 1993), have analysed some of the methods by which interrogators and respondents attempt to demonstrate what constitutes a blameworthy transgression and whether such a transgression has actually occurred. Often both questions of *fact* and *morality* are at stake (Scott & Lyman, 1968): have you actually done what you are accused of? Is it blameworthy, as has been asserted? We argue that rhetorical framings achieve their situated meanings by being seen to oppose an alternative framing that was put to the agent in question. A rhetorically convincing position thus emerges incrementally, in constant competition with an alternative framing. We can only give up our rhetorical framing if a credible alternative is at hand: in a public context, we

simply cannot be without a rhetorical framing. By making “others see the world according to a preferred frame”, a rhetor “can generate the legitimacy for a preferred course of action.” (Hajer, 2009: 55) Framings emerge in way of a contest, because “in ‘going over’ witnesses’ testimony”, questioners “are in a position to formulate and reformulate it, and thereby to ‘expose’ (that is, produce-as-such) errors, inconsistencies, implausibilities, and so on” (Edwards (1997: 129). We will show how rhetorical framings (Kuypers, 2010) can emerge by questioners pointing towards inconsistencies thus wanting to “cast doubt on the credibility of the speaker.” (Potter, 1996: 118) Where questioners and respondents provide different accounts of how the world is, there is a disjuncture in the accounts provided: basically, the two framings *cannot both be ‘the case’* (Pollner, 1987/2010).

Suddaby & Greenwood (2005: 42) utilized a publicly available transcript of a public inquiry and claim that the data “capture the arguments used by key actors engaged in a legitimacy contest”. This raises the question of validity and trustworthiness (Miles, Huberman & Saldaña, 2013: 310-14; Lincoln & Guba, 1986): there are clearly two stages when it comes to discussing the trustworthiness of inquiry data. Firstly, can we treat answers as being given with sincerity rather than, say, in a frivolous manner? Secondly, to what extent are our own operations applied to the data, trustworthy? Brown (2000: 65) argued that in order to succeed in being convincing, inquiry reports must rank high in striking “its target audience as plausible, authoritative and verisimilitudinous.” He rightly views inquiry reports as rhetorical products that are the outcome of contested sensemaking processes. Our perspective is different in that we look at the data that make up the ‘raw material’ of inquiry reports, i.e. testimony from interested or affected parties. Our argument is that such testimony is high in trustworthiness: this means that respondents know that a lot is at stake, they will not give frivolous or non-serious answers. This, however, does not obviate the possibility of disingenuous answers. However, we suggest they will give it their best shot in constructing a rhetorical framing that they think best reflects *how they want to be seen*. Trustworthiness in this sense does not mean that the assertions made are necessarily true, that descriptions provided are necessarily plausible – it simply means that there are good reasons to assume that we are actually getting their *public view* on things.

Post financial crisis, a number of hearings and inquiries took place, primarily under the auspices of the PAC, but also the House of Lords Select Committee on Economic Affairs (HoLSCoEA). Worth mentioning, because it also problematized aspects of Auditor practice, is the HoLSCoEA inquiry on *'Auditors: Market Concentration and their Role'* which was conducted from October 2010 to January 2011. The transcript we analyze here was part of a series of meetings and reports announced by the House of Commons *Public Accounts Committee*, constituting its inquiry *'Tax Avoidance: The Role of Large Accountancy Firms'*, under the chairwomanship of Margaret Hodge. Its ensuing report, which is publicly available<sup>6</sup>, was published on 26/04/2013 and created strong media attention in its wake<sup>7</sup>. The specific transcript we analyze is the oral evidence recorded in this report, from this PAC session, involving members of PAC, acting as the questioners, and four representatives from the 'Big Four', typically their Head of Tax Policy, who answer questions. A list of the participants is provided in Table 1.

---insert Table 1 about here---

We focus on this single hearing, as it was in this setting that questions of tax avoidance and the legitimacy of tax planning advice were most salient. We are aware of a related hearing that took place in December 2012<sup>8</sup>, and we draw on it in way of background knowledge but we have not performed a systematic discourse analysis of it. A hearing session is, like a theatre play, subject to 'time-space compression', because "if the audience is to absorb it, the performance must take place in the confines of one dramatic scene – in one narrative place – and must unfold in continuous time." (Alexander, 2011: 60) The hearing is relevant therefore in that public debate around tax planning and tax avoidance will certainly have influenced the questioners in this hearing, but also vice versa: the publication of this session will, and this is known to the participants, influence the continuation of

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<sup>6</sup><http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/870/870.pdf>

<sup>7</sup> For example, <http://www.telegraph.co.uk/finance/personalfinance/tax/10018397/Big-Four-accountants-blast-tax-scheme-claims.html>

<sup>8</sup> House of Commons Public Accounts Committee (PAC), inquiry into 'Tax Avoidance Schemes', 06/12/2012, under the chairwomanship of Margaret Hodge.

public debate. The latter is by no means a new phenomenon: in the 19<sup>th</sup> century, “British parliamentary investigations into factory conditions were able to project their often highly critical performances on the public stage”, both through the press and influential white papers (Alexander, 2011: 68).

In line with key ethnomethodologically informed studies, adopting a similar methodology (e.g. Mueller and Whittle, 2011), the authors read the transcript independently and looked for discursive devices, metaphors and other aspects of rhetorical framing when going through the transcript. In so doing, we acknowledge that our own interpretation of the rhetorical framings, as presented in the following section, is likewise a rhetorical product, constructed in order to persuade by means of a specific strategy (Ricoeur, 1978/ 1986: 10).

## **Empirics**

The empirical section examines various discursive tactics used in the telling of the two versions of the ‘tax avoidance’ frame. In rhetorical framing 1, the members of the PAC (listed in table 1) adopt moralising language in order to interrogate stake and interest during the public hearing. For instance, the assertion that ‘avoiding tax has become a new way of making profits’ (Chair, Q31) is both an attribution of stake, levelled at the Big Four tax advice oligopoly, and a major premise on which accusations of self-enrichment and opportunism are founded. ‘Stake interrogation’ is when an actor places the microscope over the stake and motive of an individual or group to attest its legitimacy (Whittle et al., 2014a). ‘Stake attribution’ is the definitive assigning and ascribing of such an ulterior motive. The exercise of these two discursive tactics institutes questions of both fact and morality (Heritage & Clayman, 2010) in line with established cultural accounts of Big Four deviance, contravening the social, ethical and civic mores of professional conduct.

In response to this public questioning, or holding to account, the Big Four heads of tax (listed in table 1) deploy various discursive processes to construct a different version of reality, which defends their tax practice as professional and ethical within *the constraints of the system*. Rhetorical framing 2 thus presents the Big Four as providing tax advice within a trustworthy framework of professional

expertise, whilst being subjugated to the constrictions of market competition. These two incongruous versions compete for dominance, as they are co-constructed within the discursive arena of the hearing:

- **Rhetorical framing 1:** the Big Four abuse their oligopolistic position and insider knowledge. The implied accusation is one of bad faith, intentionality, self-enrichment, gratuitous opportunism.
- **Rhetorical framing 2:** professionals have to operate within market competition, which highly constrains their actions. They are benevolently providing tax advice, in their capacity as tax experts, to the government and HMRC.

The following sections will first explore these discursive processes, most notably around the use of metaphors, to construct an “offensive” rhetorical framing, followed by analysis of the opposing position, i.e. a “defensive” rhetorical framing (Potter, 1996: 107).

### **Rhetorical framing 1**

In its exhibiting of Big Four stake, the “challenge” framing showcases prime examples of interest and ulterior motive in tax advisory services, thus breaching the higher values to which a profession should subscribe. This begins with a short summary to illustrate the sheer magnitude of the tax advice industry:

‘In the UK alone, it is getting on for £2 billion; globally, we are probably talking about well over \$20 billion, so let’s say it is about £20 billion. It is a massive, massive industry.’ (Q33)

Using moral rhetorical framing from the outset, the impetus of Big Four tax advice is immediately put under the spotlight: ‘... it seems to me, looking at this, that the main purpose of what you are doing is to try to minimise the tax that wealthy individuals or corporations pay.’ (Q33) The emphasis on ‘wealthy’ puts a particular morally questionable spin on Big Four activities. In line with Potter (1996: 80), we will show how metaphors are used in order to construct accounts that are more convincing than the alternatives.

### **1. Not black and white**

Integral to the construction of rhetorical framing 1 is an undermining of the Big Four claim that the difference between tax avoidance and evasion is *black and white*:

I hope there is common ground in our hearing *that it is not absolutely clear that everything is black and white in the law*, that judgment is involved and that judgments you often make on your tax-avoidance schemes are found, as Mr Mitchell said, to be unlawful. I hope that is common ground. This is not just a matter of saying, “We obey the law”—it is not; it is about how you interpret the law (Q35, Ev4, emphasis added).

A focal moral epistle is thus peddled within rhetorical framing 1: if the Big Four were indeed guided by professional ethics, they would find it unacceptable that although up to 50% of their advice (in some cases up to 75%) can be found, in later tribunal judgments, to be *tax evasion*, this is not reason enough to fundamentally change their way of operating.

Challenging the legitimacy of Big Four tax advice at its core, rhetorical framing 1 actively evaluates it against the traditional ethical principles of professional responsibility. Perhaps unsurprisingly – in light of his various publications co-authored with prolific Big Four critic Prem Sikka – Austin Mitchell argues that since, ‘advice is legal until it is struck down by a court’ many of the Big Four schemes being sold ‘are *potentially* illegal because they *could* be struck down’ (Q34, Ev4, emphasis added). This draws attention to the *transient state* of what is deemed ‘legal’ professional tax practice, at any given time, and the retrospective illegality of many tax schemes. Claiming that a boundary is clear-cut and can be drawn precisely, is itself an *interested* discursive speech act: the advice industry is to some extent predicated on the boundary between avoidance and evasion being clear-cut.

### **2. David and Goliath battle**

Rhetorical framing 1 draws briefly on the metaphor ‘David and Goliath battle’ (Q58) (Ganz, 2009) to contrast the power of the Big Four with the comparably meagre resourcing of HMRC. This charges the Big Four with self-interested abuse of their position of power within the tax advice oligopoly. Moral rhetorical framing is used to practice close scrutiny, revealing the deceptive nature of tax schemes, such

as ‘transfer pricing’, and unveiling the reality of tax avoidance hidden behind professional jargon:

[Mr Jackson:] So you are in the business of obscuring where value is created—we saw that in the example of Starbucks—in order to avoid tax in this jurisdiction. That is what transfer pricing is about (excerpt from Q53).

In order to substantiate this claim, reference is made to the self-proclaimed socially responsible, turned corporation tax dodging ‘villain’, Starbucks (Q53). “Obscuring” can be seen here as an “intention-promoting” verb (Potter, 1996: 182), where the description is such that *agency is emphasized* and consequences are described as *intended*. To bring the stake attribution even closer to home, an interrogation of manpower numbers follows (Q54-58): the critical mass of manpower within the Big Four (circa 200) is set against the equivalent 65 within HMRC. This constructs HMRC as representing the ‘good side’ – analogous to the virtuous David being the evident underdog – versus the great cumulative might of the Big Four, representing hated Goliath, to epitomise HMRC’s visibly limited capacity to counter Big Four tactics in the tax avoidance ‘battle’. This constructs HMRC as the morally good underdog fighting the morally questionable Goliath.

### **3. Game of risk**

Taking the moral challenge a step further, rhetorical framing 1 employs a new metaphor which offers greater mileage for stake attribution: a ‘game of risk’ (Austin Mitchell, Q143-8). ‘It is a game in which you and HMRC are trying to outwit each other’ (Q143); ‘a game of risk in which the odds favour you’ (Q147). Mirroring an earlier discursive ploy, an interrogation of HMRC resourcing is once more set against the equivalent Big Four critical mass to highlight ‘the weight of odds in this game’ (Austin Mitchell, Q143). As such, attention is drawn to the Big Four’s ability to pay very large salaries, and therefore attract ‘some of the best brains’ through having the pickings of ‘the weight of talent’ and ‘in large numbers’ (Austin Mitchell, Q143). Further to the Big Four enjoying great symbolic power (*David and Goliath* metaphor), this portrays them as actively ‘engaged in a game of “risk”, in which the



odds are that you will win because the opponent is less powerful, less effective and certainly less well paid than you lot' (Q145).

Use of this metaphor thus delineates Big Four tax advice as a predatory practice: namely, a deliberate action in full knowledge that the inferior resourcing of HMRC will make prosecution unlikely, harbouring an unfair advantage which, worst of all, is pursued to the detriment of the wider public, 'the taxpayer'. Rebuffing attempted deflection from rhetorical framing 2 (Q145), the Chair re-emphasises *stake attribution* asking the four heads of tax to reveal whether they are all on seven-figure salaries (Q146). The apparent ironic *lack of accountability*, given the professional accountancy context, is likewise drawn on as a further aspect of the 'game': 'You suffer no consequences; they [your clients] do.' (Q148). Signalling further system injustice, this is used to argue that whilst a large percentage of Big Four tax advice has the potential to be deemed illegal, the Big Four do not suffer any consequences – either in the way of reputation or sanctions – for providing 'bad advice' (defined as advice which 'could be ruled out', Austin Mitchell, Ev15, Q148). As such, this metaphor constitutes rhetorical framing around questions of both fact (numbers quoted) and morality (no repercussions for providing 'bad' advice).

#### **4. *Turkeys don't vote for Christmas***

Rhetorical framing 1 depicts the complexity of tax law as actually *conveniently playing into the hands* of the Big Four: this complexity provides yet another means of unfair advantage and profit (Q162) and fosters an overly cosy relationship with government, as part of a tax legislature power-knowledge regime.

First, despite their protestation and declaration to the contrary, rhetorical framing 1 highlights the Big Four's attributed stake and vested interest in maintaining the status quo as expressed in the metaphor 'Turkeys do not vote for Christmas': 'Let's be honest: you do not have any vested interest in reducing the size of the tax code—turkeys do not vote for Christmas—whereas SMEs do want a smaller tax code' (Q158). The questioner employs rhetorical questioning 'It is of benefit to your business, isn't it?' (Q160) Interest is constructed such that it looks like plausible that it would prevent the Big Four from doing 'the right thing'.

Second, the ‘overly cosy’ relationship between the Big Four, HMRC and the Treasury is depicted as perpetuating government dependence on Big Four advice and as evidence of their vested interest in complexity. Thus, rhetorical framing 1 argues that maintaining absolute professional independence between the Big Four and the government is of monumental import for the sake of professional ethics and trustworthiness: ‘I think it is very important, in ethical terms, that there is a distinction there, and that there is not too cosy a relationship between yourselves and HMRC and the Treasury.’ (Q158). Of particular concern, therefore, is the relationship with HMRC given the ‘technical support’ provided at Big Four ‘expense’: providing expertise at one’s own expense is not intrinsically a good or bad thing. It is subject to two opposing framings, one that constructs it as ‘cosy’ and problematic, and a positive one that constructs it as altruistic.

##### **5. *Spirit of the legislation/ riding a coach and horses through it***

Rhetorical framing 1 uses two further metaphors, ‘spirit of the legislation’ and ‘riding a coach and horses through it’, in conjunction with an example of deliberate tax abuse, to further attribute stake and unethical motive. These metaphors are used in tandem to both depict and embody Big Four exploitation of their knowledge of the legislation for private gain. First, the metaphor ‘the spirit of the legislation’ connotes misalignment with the espoused commitment to public service enshrined within the professional remit: ‘A lot of what we are talking about here, I think, breaches not necessarily the absolute letter, but the spirit of the Companies Act’ (Q95). This suggests that current Big Four practice makes rhetorical pledges to tokenistic adherence whilst hiding behind the guise of a ‘code of conduct’: ‘but it is the spirit of the legislation, not just the letter, which is the key’ (IS, Q155). As such, this metaphor both echoes and encapsulates Freidson’s Weberian point about professions “preserving form without spirit” (Freidson, 2001: 181). Arguing that professional practice, instead, demands a higher level of ethical engagement with the legislation, rhetorical framing 1 outlines the expectations of a tax professional given their trusted position as actors of ‘distributed public governance’: displays of *true* professionalism manifest in adherence to appropriate

behavioural parameters, emanating from an internalised sense of obligation and duty to serve the public interest.

Second, appeals to corroboration (Potter, 1996: 158) act to illustrate this point further. An example of directors buying the rights to US films, thus cashing in on legislation designed specifically to support the *making* of films within the UK film industry, is drawn on as evidence of the inherent injustice of tax advice contravening ‘the spirit of the legislation’. This reference to deliberate opportunism provides a stark illustration of legislative sabotage, whereby government attempts to support and encourage small business innovation, through the implementation of new legislative acts, devised with Big Four assistance, have often resulted in subsequent tax advice ‘riding a coach and horses through it’ (Q155):

The Chair’s concern is that we, having done something—perhaps naively—which we thought would encourage innovation, find people like yourselves riding a coach and horses through it and cleverly doing things that we never intended (Q155).

This particular metaphor “draws on awareness of a moving coach and horses as a large and powerful force.” (Deignan, 2003: 268) It is used here to evoke such force, but also “riding” in this context is a verb that emphasizes both agency and intentionality (Potter, 1996: 182) in exploiting potential loopholes. In this sense, ‘riding a coach and horses through it’ is quite different from those just going along with, or being carried along by, a broader trend.

#### **6. *Poacher turned game keeper turned poacher***

Returning to the discussion of appropriate professional boundaries, for the sake of independence (Chinese walls), the metaphor ‘poacher turned gamekeeper turned poacher’ is introduced to launch a further point of criticism. The Chair is clear to distinguish ‘actual contracts you do for the Government’ from the ‘cosy relationship’ mentioned earlier, the latter being the object of his stake interrogation. He expresses his discomfort with the close connections formed through Big Four involvement and participation on various boards indicating that therein lies a potential conflict of interest: ‘You are all in there, and my view is—I want to put these questions to Jane McCormick—that you used that close relationship in an

inappropriate way' (Q149). Quoting from a KPMG marketing leaflet, which states, 'One of the team that is supporting you in that work is the very Jonathan Bridges who wrote the legislation' (Q150), acts to illustrate two levels of deliberate agency: this depicts the Big Four as, first, exploiting their insider knowledge of the legislation (opportunism) and, second, making adroit reference to this relationship to attract new clients (ostentatious promulgation). Whilst careful to hail the important role of the Big Four as 'tax experts', moral rhetorical framing is used to expose the Big Four's underhand (ab)use of their entrusted privileged insider position, as professionals, which breaches the *spirit* of the legislation:

'You write the technical stuff and you then use the very stuff you have written to advise your clients on how to use the law and find loopholes in it to avoid tax. That was not the legitimate purpose for which this was intended' (Chair, Q151).

Later, a return to the metaphor of 'gamekeeper turned poacher turned gamekeeper again' (Q173) challenges the professional trustworthiness and legitimacy of the Big Four as instigators of the very legislation on which they subsequently provide tax advice. Again, the potential for abuse of the insider's view – having the insight to quickly identify 'loopholes' in new legislation – is presented as deliberate stake and, ultimately, unprofessional practice; to illustrate such underhand opportunism, as depicted in this metaphor, it is asserted:

'You in the Big Four kind of permeate HMRC and the Treasury... You are not doing that just out of charity and a desire for public service; you are doing it so you can learn the mind of HMRC and know how it works—its faults, its problems and its inertias—so you can then go back and advise clients on what the problems are and which way to go about approaching HMRC.' (Q173)

Whilst acknowledging the likelihood of two-way traffic between the Big Four and HMRC, this questions the judgement of allowing return trips: 'I cannot believe in poachers becoming gamekeepers and then going back to poaching *with an honest mind*' (emphasis added). Drawing on integrity as a salient 'principle' of ethical professional practice emphasises the centrality of maintaining independence; it is suggested that such to-ing and fro-ing, within a symbiotic relationship, in the name

of ‘technical support’, has the potential to contravene and thus undermine professional trustworthiness. By using the word ‘permeate’ (Q173) there is an implied accusation of deliberate Big Four infiltration of HMRC under the guise of ‘charity’ and ‘public service’ and a suggestion of *ulterior* motive. What we have here is an instantiation of Alexander’s (2011: 61) point about publicly performed social dramas, where “one group of actors casts doubt on the sincerity and verisimilitude of another.”

Using excerpts from KPMG marketing material, once more, Big Four secondments to HMRC are cited as evidence of carpetbaggery, within a continued rhetorical battle, waged between the Chair and Jane McCormick, as to the status and remit of such secondments (Q156). Whilst Jane McCormick admits to a degree of stake, specifically that ‘insight’ is gained from having ‘provided technical advice’ (Q156), unconvinced, the Chair reattributes the highest level of agency with *strategic intent*: ‘(h)e wrote the law’ (Q157). The direct naming of another so-called *poacher turned gamekeeper turned poacher* [Robert Edwards, Q156] is a discursive act of stake attribution. Denying this overall level of responsibility, Jane McCormick recalibrates this back to the lower level of merely providing ‘technical advice’ (Q157). Rather than definitively diffusing suggestions of stake, this utterance is used as a discursive springboard from which Mr Jackson (PAC) launches a further moral attack. Highlighting ‘asymmetry’ as an ethical anomaly, incommensurate with professional practice, he accuses the Big Four of promoting injustice, expounding how their actions are to the detriment of SME growth (Q158) - something which as an MP he witnesses first hand:

The problem is that there is an asymmetry here; as constituency MPs, we deal with small and medium sized enterprises who often have tax disputes but cannot get through to HMRC. They do the right thing, though; they pay tax. Your clients— (Q158)

Contrasting the archetypal MNC villain, Amazon, infamously dodging tax, with the ‘small book sellers who *do the right thing* and pay tax [who] are going out of business’ (Q158) draws further attention to the inherent injustice of the status quo:

One of the most egregious issues with Amazon was the fact that their lorries trundle around the UK delivering books to people, not paying any tax on our roads that have to be maintained (Q158).

By implication, the Big Four are deliberately ignoring their ethical obligations and professional responsibilities in promoting behaviour, which is highly instrumental in its approach to tax obligations. Moral rhetorical framing is used to decry an inherent obsession with increasing profit margins and scant regard for the wider impact of those ends on UK SMEs. To further illustrate this 'asymmetry', and used to denote an act of injustice even closer to home, Mr Jackson continues:

... your clients have, effectively, privileged access to the Treasury for you to go in and, at the margins, write some tax policies that benefit your clients (Q158).

This dual-stake attribution – SMEs going out of business, effectively exploited by your tax advice, whilst you cream off the benefits of higher profits – emphasises Big Four oligopolistic abuse of their privileged insider position, acting to the detriment of SMEs and robbing the public purse. Highlighting such questionable, duplicitous practice holds the Big Four collectively responsible for this injustice, as epitomised in the example of Amazon. Whilst not wholly unexpected of a corporate 'villain', the PAC suggests that this is unacceptable behaviour for a *profession*.

In summary, rhetorical framing 1 draws on various discursive tactics, and most strikingly metaphor, to paint a vivid depiction of Big Four practice acting with deliberate self-interested intentionality and *unprofessional* motives exemplifying 'specialists without spirit' in Weber's famous phrase (1904-5/1958: 182). As we have shown, "metaphor and the workings of language are actually responsible for the appearance of truth in this discourse." (Potter, 1996: 81) 'Truth', in the sense of framing 1 being the 'correct' or most persuasive one, is the *outcome* of productive discourse; in this process, metaphors can make rhetorical framings more persuasive.

## **Rhetorical framing 2**

By contrast, rhetorical framing 2 embraces a single metaphor, namely 'the heart of competing for business' (Q97); as a cardinal and pre-eminent theme, this

inculcates an alternative view of professional ethics. Although mentioned directly as a metaphor only once, frequent reference is made to the neoliberal ideals which underpin Big Four professional practice. Business competition, as the heart of the professional mandate, is thus used to placate the accusation of oligopoly abuse. Intrinsic to rhetorical framing 2 is the insistence on a definitive ‘black and white’ separation between tax avoidance and evasion, a separation acting to inoculate stake. Stake inoculation is where “descriptions are constructed to head off the imputation of stake or interest” (Potter, 1996: 125) and, as analysed below, can involve an actor purposively deflecting suggestions of having morally questionable motives.

Deployed as a primary discursive defence stratagem to further this end, rhetorical framing 2 makes extensive use of externalisation. Externalisation is the discursive strategy of downplaying one’s *own agency* and instead shifting emphasis onto the *scene* in order to avert blameworthiness (Mueller & Whittle, 2011; Burke, 1969). Thus, in stark contrast to a portrayal of the Big Four as partisan in operating and perpetuating a power-knowledge regime (agency), this rhetorical framing diverts attention to the increasingly complex and globalised world of business and, in-so-doing, places emphasis firmly on the constraints of the competitive market environment (the so-called ‘*scene*’ in Burke (1969)), which places very tight *constraints on what agents can actually do*. As such, rhetorical framing 2 draws on the equally well-established higher order discourses of globalisation and complexity, propagated within the accounting industry. In an attempt to propitiate the PAC, externalisation is used in conjunction with the discursive tool *membership categorization* (Potter, 1996: 114, 133-139; Whittle et al., 2014b), which is about saying ‘we are entitled to speak on behalf of a group, category of entities, of which we are a member’, to emphasise that certain experiences are shared between the Big Four. Furthering the collective endeavour to exonerate and vindicate, *stake transcendence* is utilised to defend their privileged position as tax advisors for government.

Within each of these themes – heart of competing for business, constraints of market competition and, finally, collective professional mandate as trusted tax

experts – discursive processes are deployed in response to and in defence of the metaphors introduced by rhetorical framing one, as we now analyse below.

### **Heart of competing for business**

Pivotal to the construction of rhetorical framing 2 is the often-repeated point that ‘evasion is illegal and tax avoidance is not’ (KN, Ev4, Q33). Emphasising this Big Four mantra that a black and white distinction *can* be drawn, Bill Dodwell asserts: ‘It is not an offence *at all* to have a difference of interpretation about what the law means.’ (Ev 7, Q63, emphasis added) The empirical fact that very few cases have been lost at tribunal (Q65-66) is used to further endorse rhetorical framing 2’s black-and-white narrative; even though the fact that cases *have* been lost could equally be used to argue for the opposite case.

A recalibration of the discursive context is enacted, by the Big Four, on a number of occasions during the hearing, to shift the narrative back in defence of this ‘black and white’ outlook on the tax advice jurisdictional domain. In one such example, Kevin Nicolson (PwC) stages a presentation of four key areas of PwC’s professional code of conduct in order to inoculate rhetorical framing 1’s attribution of stake. Asserting that the mere existence of this professional code ensures that advice is, firstly supportable in law, secondly fully disclosed, thirdly in line with an understanding of the client’s circumstances, what they are wanting to achieve; fourthly, offered in conjunction with clear communication of relevant reputational risks to the client (Q34-36); four points, which are used as an extended and persistent act of recalibrating the terms of the discussion towards a rhetorical framing 2 of the professional mandate.

As a rousing defensive tactic, to assuage the portrayal of Big Four tax advice as a ‘game of Risk’, rhetorical framing 2 downplays ‘motive’ using both *denial*: ‘I do not recognise the “game”, as you referred to it, Mr Mitchell’ (KN, Q144); and *deflection*: ‘I think, with respect, you are underestimating the skills and quality of HMRC’ (JD, Q145). In particular, placing emphasis on Big Four provision of ‘commercial *advice*’, as both inherent within the professional mandate and constitutive of their business model, provides an alternative market-oriented view of



ethical practice as part of an overarching commitment to promoting business prosperity:

**Bill Dodwell:** I don't think that is true at all [*denial, Authors*]. We are in the business of giving commercial advice to companies and individuals [*deflection, Authors*] (Ev, 15, Q147).

### **Tax advice and the liberal market economy**

*Externalisation*, a prime discursive tool embraced by the Big Four, is employed to reduce agency that we might otherwise attribute to them as professionals with tax leadership responsibilities (Whittle & Mueller, 2012). In particular, the unsatisfactory constraints of the legislative environment are emphasised to create distance from any associated agency and blameworthiness (for instance, Q50). Contemporary UK tax law is portrayed as an unfortunate by-product of former times, which the Big Four also have to endure; thus, they paint themselves as subject to, or victims of, external forces, tax complexity and globalisation, over which they have no control and to which their professional practice is subjugated within the current arrangements. Besides acting to appease the moral challenge of vested interest in maintaining tax law complexity (turkeys do not vote for Christmas, Q158) this attempts to propitiate and quell the 'Big Four bashing' cultural accounts of the dark side of accountancy firms comingled with rhetorical framing 1.

Whilst externalisation is used throughout rhetorical framing 2 to emphasise the restrictions, which the competition imposes on tax advice practice, this runs in parallel to a heroic triumphing, in spite of the status quo. To this end, several discursive opportunities for blowing the stake transcendence trumpet are enthusiastically seized, by the Big Four. Defined as 'the discursive process through which actors claim to transcend self-interest', stake transcendence is the discursive expression of active (and benevolent) 'attachment to a certain higher norm, value or ideal' (Whittle et al., 2014a) as demonstrated in the examples below. Such discursive inferences to higher ideals are championed as espoused values within their code of professional practice and evidence of a *genuine striving for civic duty*.

With reference to the accusations of the relationship with Government being ‘too cosy’, Jane McCormick (KPMG) plays the patriotic ethics card to emphasise that ‘well over a third’ of Big Four tax advice provision is directed towards ‘UK business’ (Q158); as such, a significant amount of their work must be, by implication, in the interest of the general public, thus suggesting some level of attention to the ethical ideals of the professional mandate demanded in rhetorical framing 1. Keen to highlight KPMG’s representation of ‘small taxpayers’, as a demonstration of such civic commitment, she cites their proud affiliation with the archetypal British small firm, ‘the National Federation of Fish Friers’ (Q158). Acting to parade Big Four benevolence – in a flourish of re-alignment with the ideals of professional trustworthiness – this adroitly negotiates the ethical balance of serving the interest of wider society; notably pandering to PAC approval, *UK business*, rather than MNCs, features as the noteworthy focus of such benevolent and self-*dis*-interested intent. Furthermore, rhetorical framing language, in the form of naturalisation, is used to accentuate the indispensability of Big Four assistance in tax policy creation and navigation: ‘there will always be tax and there will always be a need for tax advisors’ (Q158). Sweeping aside the suggestion of a symbiotic relationship with HMRC, it is proffered that the government, and by implication the taxpayer, is indebted to the Big Four for their almost charitable provision of free advice to HMRC. This acts to inoculate the PAC’s depiction of ulterior motive and emphasises stake transcendence, show-casing the Big Four as adhering to the higher virtues demanded of a profession.

### **Collective professional mandate as trusted tax experts and policy advisors**

To the end, rhetorical framing 2 remains unswerving in its commitment to both the rebuttal of rhetorical framing 1’s stake interrogation and to demonstrating an *appropriate* (as opposed to utopian) transcending of self-interest. Continuing their pursuit of neoliberal recalibration of the professional mandate, the Big Four embellish their variation on a theme of active contribution to the societal good, heralding a collective commitment to promoting business competition and prosperity, as trusted masters of the tax law universe.

Opposed to rhetorical framing 1's suggestion of Big Four breach of the 'spirit of the legislation', Jane McCormick again leads the Big Four discursive foray. As a modification of this metaphor she expertly shifts the focus, making a seamless transition to a deliberate discussion of 'the *purpose* of the legislation' (Q153, emphasis added). However, this subtle move is rebuffed by the Chair who immediately asserts 'you exploit the *purpose* as yet another loophole and opportunity for people to pay less tax'. Adeptly, Jane McCormick recalibrates the terms of the discussion, reformulating the mandate of the Big Four's professional agency: 'to apply the legislation with our clients to *fulfil the purpose* of the legislation' (Q154, emphasis added), whilst staying within the market competition parameters of rhetorical framing 2.

*Membership categorisation* is a further discursive strategy, including 'it is not just KPMG; it is all of us' (Q150) and subsequently using 'we'. Emphasising the wider membership of the Big Four shifts the focus to collective 'responsibilities, expectations, rights and obligations' (Edwards and Potter, 1992: 51, 160). These discursive tactics appeal to normative isomorphism showing that KPMG tax advice is entirely consistent with the wider framework of Big Four collective professional practice and KPMG is not free to simply deviate from professional norms.

Having achieved some degree of *potential* blanket culpability, Jane McCormick embarks on blanket inoculation: she utilises the rationale that the Big Four are 'frequently' called upon 'to provide [the government with] technical support in various areas, but in particular where new legislation is being looked at.' (Q150). In an act of discursive recalibration, this has the immediate effect of placing responsibility for initiating any form of 'relationship' firmly with the government. Inoculating and transcending stake and underhand motive, this elevates the action to the level of cherished societal contribution which can be seen to fulfil the higher ideals of professional practice.

## **Discussion**

From our analysis of the PAC's 2013 Tax Avoidance inquiry we have illustrated that the published version of the interrogation brought out very clearly

directly competing rhetorical framings. There is no final, sanitised report with ‘voices speaking in unison’ (Callon, 1986: 223; Brown, 2000: 67), partly because a PAC inquiry operates under a different discursive regime from a formal public inquiry. Our specific PAC inquiry needs to be seen to be holding the Big Four Accounting firms to account, as far as their tax advice business is concerned. Therefore we felt justified in applying the concept of rhetorical framing, which emphasizes that “(i)n the courtroom... (o)pposing pleaders are to be met by the spirit of contradiction...” (Billig, 1996: 267). The remaining discussion will focus on the role of metaphorical discourse within such framing and the rhetorical appeal of culturally embedded accounts in accountability interrogations. To exemplify this, various metaphors used by the PAC, to this end, will then be discussed followed by the general discursive neoliberal framing constituting the Big Four’s rhetorical defence.

In the preceding empirical section we illustrated how metaphor is deployed as part of a suite of discursive tactics within two parallel and distinct rhetorical framings in which ‘opposing pleaders’ draw on macro level cultural accounts. In line with Potter (1996: 180), we demonstrated that “metaphor is often considered as an area where descriptions are being used performatively.” For instance, in fairy tales, metaphors are often employed in order to apprise that “life is hard” (Zipes, 2011: xiii) and the metaphors of “driving a coach and horses through it” and “David and Goliath” have, similarly, a slightly resigned feel to them; however, they also hint at “possible alternative choices that we can make to fulfil our utopian disposition to transform ourselves and the world.” (ibid) Part of this “metaphorical discourse and narrative strategy [is] to comment” (ibid p.27) critically on the guile, subterfuge and sharp practices employed by the powerful.

At the micro level of situated accounts, we have shown how questioners and respondents contribute incrementally to the construction and creation of respective rhetorical framings. Specifically, we emphasized discursive devices around the management of stake as well as the rhetorical use of metaphors. Furthermore, we argue that these discursive devices and metaphors make each rhetorical framing more convincing: for example, the ‘David and Goliath’ metaphor puts a negative connotation on the role of the Big Four, whilst the HMRC receives a positive connotation: an underdog who has history on their side and, eventually will be

victorious. The ‘Turkeys don’t vote for Christmas’ metaphor undermines the credibility and questions the sincerity of certain Big Four statements and commitments as far as a simplified tax code is concerned. Using a culturally well-established metaphor can be a more powerful means of rhetoric than alternatives, such as direct accusations (“I don’t trust what you are saying”, “I don’t trust your sincerity here” and so on).

Culturally embedded accounts can be discursively more convincing (Creed et al., 2002) as they appeal to shared knowledge, rooted in history and traditions. Fairhurst (2011: 181) put it well: “Even in those precise moments of communicating when holding oneself or another accountable for the actions taken, metaphorical language emerges in the labelling, explaining, and justifying of one path over another.” This is also confirmed with regard to the ‘poacher turned gamekeeper turned poacher’ metaphor: whilst the notion of personnel movement between the HMRC and the Big Four sounds fairly innocent, the metaphor sounds more sinister, given the cultural baggage that comes with it. As Lakoff & Johnson (1980: Ch.2) pointed out in their seminal account, by highlighting one aspect, metaphors effectively *hide* other aspects in a debate. The various stake accusations suggest to the audience that the Big Four have a very large financial stake in this matter and their actions have to be understood against this background.

On the other side, the arguments centre on either inoculating against stake accusations or transcending stake: the former is illustrated in respondents denying stake in a complicated tax code. For instance, vividly painted manifestations of professional civic duty are set against a backdrop of constricting tax code impingement, recounted through the discursive tactic, externalisation. The latter is illustrated by respondents repeatedly emphasizing the altruistic dimension of their activities, including bestowal of their prized expertise for writing new additions to the tax code. Together, this presents Big Four tax work as exemplary in both enacting the demands of the transcendence claim, albeit sculpted to meet neoliberal ideals, and in navigating the ensuing market pressures.

In sum, whilst both rhetorical framings consist of culturally embedded accounts, metaphor is deployed in distinct ways. First, we illustrated how metaphor is widely used to construct an offensive rhetorical frame decrying Big Four tax

avoidance practice as emblematic of the dark side of professions. By contrast, the defensive rhetorical framing avoids the explicit use of metaphor, per se, and instead recasts the transcendence claim using a core metaphor: the heart of competing for business, drawing extensively on broader cultural accounts of neoliberalism, ever increasing globalisation and tax legislative complexity to convince the audience of the legitimacy of Big Four tax advice practice.

## Conclusion

Our point of departure was the argument that decentralised governance presupposes trust in the dispersed actors in question (Mueller et al., 2015), including trust that they are not merely ‘playing the game’ (Mueller et al., 2011). Some have argued that the manner in which professional services firms (PSFs) *translate* their professional remit into organisational procedures is essentially in violation of the *spirit* of professions or, put differently, “the individual pursuit of material self-interest and the standardization of professional work [...] are the very vices for which professions have been criticized, preserving form without spirit.” (Freidson, 2001: 181) This would put two question marks over existing arrangements: one with regard to distributed governance, the other with regard to the way protected professional remits are actually being executed. Put more starkly, does the form without spirit, the cynical shell, demonstrate the *dark side of professionalism*?

Pivotal to addressing this question is the assumed *substantive nature* versus *fleeting legal standing* of boundaries. Earlier we argued that in the modern state, “state simplifications... have the character of maps.” (Scott, 1998: 87) These maps include categorizations and distinctions between categories, which are entrusted to carefully chosen agents to be administered by them. We saw that in the field of tax planning some of the boundaries are hard to police, and transgressions between categories, or incursions across borders, are notorious. In the wake of a pivotal event, such as the 2007-8 Great Financial Crisis, it is to be expected that a whole range of categories and boundaries become subjected to careful scrutiny. In his seminal account, Lakoff (1990: 56) showed convincingly that some categories “are graded; that is, they have inherent degrees of membership, [and] fuzzy

boundaries...". These boundaries that require policing include tax planning/ tax avoidance/ tax evasion: whether clear distinctions exist, and can be established, is itself discursively contested. "Over time, arguments that were initially greeted with incredulity and disdain are acknowledged to have some purchase and legitimacy..." (Sikka & Willmott, 1997: 155). Indeed: variously, questioners, but on occasions also respondents, have argued that there are 'grey' areas and clearly defined boundaries do not exist.

We agree that "(g)overnment leaders and top officials may try to regain [...] control in order to impose their frames upon the public understanding of the crisis and its wider implications..." (Boin et al., 2008: 287). In this vein, the proceedings of the PAC's 2013 Tax Avoidance inquiry can be seen as such a framing contest. Two competing rhetorical framings allow us to make sense of, or frame, the existing arrangements in very different ways: first as an arrangement that is being opportunistically exploited by the Big Four in pursuit of self-interested, unethical gain and based on substantial knowledge and information advantages. This is in line with widely held cultural accounts which have circulated during the last thirty years, in the UK (e.g. Sikka, Willmott & Lowe, 1989; Sikka & Willmott, 1997; Mitchell et al., 1998; Sikka, 2003; Sikka & Hampton, 2005; Sikka & Willmott, 2010), but also in the U.S., where it can be summarised with Macintosh's (2002: 76) description of Abe Briloff's long-running campaign which aimed to ensure "that the profession must clean up its act by purging and reviving its sacred covenant with society".

Part of this cultural background knowledge is Arthur Anderson's widely reported association with the Enron scandal and in particular its alleged role in jointly creating 12 tax avoidance schemes which helped Enron save \$2bn in corporation tax (the Guardian, 14/02/03). This has given rise to the theory of *gatekeeper failure* (Coffee, 2002, 2006), i.e. the notion that *reputational intermediaries* have failed – and may fail again in future unless there is reform – to send crucial signals that could reinforce investor confidence. Where this notion of gatekeeper failure can be linked to self-interest and significant financial stake we will, almost by necessity, arrive at the more serious notion of the 'dark side of professions', whereby a profession has been co-opted into the dynamics of neoliberal capitalism and will prioritise growth and profitability above all else.

An alternative cultural account promulgates the professional and trustworthy management of a jurisdictional domain, whereby the Big Four fulfil their responsibilities in a manner that fully justifies the trust society has placed in the accountancy profession. They compete, according to rhetorical framing 2, like other firms do, in an increasingly cut-throat global capitalist arena, which is not of their making and which might sometimes involve having to sail close to the wind. Competition coerces them to endorse and adopt a 'commercial-professional logic' (Carter & Spence, 2014) and they cannot be held responsible for some borderline decisions and actions, or so the argument goes.

As such we demonstrated two important contributions to understanding the dark side of professions within the post-inquiry sensemaking literature. First, we showed how the supposed wilful milking of jurisdictional fluidity in professional categorisations constitutes a rhetorical framing bemoaning the contravening of cherished professional values. For instance, the PAC's rhetorical framing mounted a moral challenge that the Big Four ought to self-police these increasingly porous boundaries for the sake of professional ethics. Metaphor, such as '(not) black and white', was used by questioners to emphasize the ethical precariousness of current ways of operating and also to emphasize the Big Four's *deliberate agency*, in routinely risking transgressing the boundaries of what constitutes 'tax avoidance'. This is counteracted by the Big Four portraying an alternative market-oriented/ neo-liberal view of professions, pursuing societal good through dedication to promoting market competition. As a second key contribution, we demonstrated the bridging between broader cultural accounts, at the macro-level, with micro-level interactions.

One of the questions emerging from our discussion is 'why should this specific session be of any relevance?' We think that under conditions where public confidence has been undermined, not only sensemaking, but also sensegiving is required and public inquiries and parliamentary inquiries play a substantial role in this (Brown, 2000, 2004; Gephart, 1993; Weick & Sutcliffe, 2007). Whether this episode will amount to a 'field-configuring event' (Hardy & Maguire, 2010; McInerney, 2008; Greenwood, Suddaby & Hinings, 2002), in the sense that it will lead to decisive changes in tax law and associated regulations, remains of course to be seen.



The main recommendations from the PAC's 2013 Tax Avoidance inquiry have to be treated with a pinch of salt as the assumption cannot be that they neatly translate into implementation activities. Indeed, at this point in time it is far from clear whether there is a settled sense that the tax planning/ advisory services of the Big Four are perhaps socially *unacceptable* and, potentially, *illegitimate*. The event under scrutiny is part of this ongoing, contested discursive process and, in the punchy words of two long-standing critics, discursive "pawns that survive may eventually become queens ..." (Sikka & Willmott, 1997: 155). What this also means is that these 'micro interactions', the pawns, are, *potentially*, highly consequential and *can* have broader societal or institutional implications (Suddaby & Greenwood, 2005; Ezzamel, et al., 2007). It is in these micro interactions that critics can be answered, allegations refuted, and moral critique answered.

Thus, what we can say is that in order to be able to tackle such questions we need to make efforts to *bridge* the study of situated discursive, or rhetorical, accounts, at the *micro* level, and *systems* of institutional reform, at the *meso* and *macro* level, along the lines outlined in different contexts by Covalleski, Dirsmith & Rittenberg (2003), Suddaby & Greenwood (2005) and Hardy & Phillips (1999). In our case, the Big Fours' attempts to defend themselves discursively will, if successful, fend off new, unwelcome regulations by the present or a future government. If unsuccessful, new regulations or measures aimed at restoring our confidence in the effective functioning of the tax system can be expected. Indeed, "what is the legitimation for society to give the profession near monopoly rights on providing accounting services?" (Macintosh, 2002: xi) Further, Prem Sikka argued, in November 2014, that the Big Four have escaped serious retribution for their role in the 'Great Financial Crisis', possibly because they are 'too big to close'<sup>9</sup>. Thus, as of 2014, the Big Four still hold 95 per cent plus of the FTSE 350 audit market, suggesting their grip on the large company audit market is still very considerable.<sup>10</sup>

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<sup>9</sup> THE PROFESSOR'S VIEW: Number's up for Big Four accountants behind tax avoidance schemes and duff audits of banks. <http://www.thisismoney.co.uk/money/comment/article-2827741/Number-s-Big-Four-accountants-tax-avoidance-schemes-duff-audits-banks.html#ixzz3LiOLk4CJ>

<sup>10</sup> <http://www.thisismoney.co.uk/money/markets/article-2596264/Big-Four-auditors-facing-disruption-bread-butter-work.html#ixzz3LiSYU8wh>

Finally, what are plausible implications of the event that we analysed? Tax avoidance is likely to be an ongoing issue that will not be settled and then disappear. Instead we anticipate this to be an example of those inquiries or policy-making processes that “are never-ending, fraught by struggles that at no time seem to end or that only temporarily see closure.” (Gottweis, 2012: 213) This suggests that Billig (1996: 39) is right to warn against reducing “rhetoric to being just a theatrical performance or to being merely a game”. Even though the public will have been served up a veritable spectacle, including a clear sense that potentially blameworthy parties have been given a proper and tough interrogation, it is unlikely that there is discursive closure (Gephart, Steier & Lawrence, 1990; Brown, 2000, 2004). It is too soon to judge whether the “trial of strength” (Turner, 1974: 17) between the parties will translate into authoritative policy actions. Alexander (2011: 33, 60), building on Turner, refers to “open-ended social dramas” and this concept seems promising for our purposes. It is indeed likely that further theatrical performances will be required that publicly investigate and interrogate the alleged breach of cultural and social norms. Thus, we can argue that PAC sessions illustrate the ambivalent and double-sided nature of governance, in that we require “authority [to] be accountable” but we also “depend on performative abilities to sustain collective belief.” (Alexander, 2011: 81) Due to this ongoing tension, it is probable that the rhetorical framing contest will outlast the session that we analysed.

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