Open Research Online

Transferring the 'War on Terror' to the private sector: practice perspective on organisational tensions

Conference or Workshop Item

For guidance on citations see FAQs.

Version: Accepted Manuscript

oro.open.ac.uk

1. Introduction

The terrorist attacks of 11th September 2001 prompted the search by governments of many developed nations, and international organisations, to find new ways to counter terrorist activities (Vlcek, 2008). Measures identified have included the increased monitoring of financial transactions in order to identify and counter the funding of terrorism, and the increased monitoring of individuals as they travel across national borders. However, whilst governments seek to enforce these counter-terrorism measures, private sector organisations are the point of contact with individuals whilst they are carrying out the activities of interest. This proximity to the activity or event of interest, and importantly, the ability to collect data on the individual and their activities, has led governments to require, often supported by legislation, private sector firms to collect data on their customers and report this to government agencies for their evaluation. This study explores the programmes of activity being put in place in two key sectors of UK industry; in the financial services sector, they are anti-money laundering (AML) and counter-terrorism finance (CTF), and in the travel sector, the e-Borders programme.

In addition to the legislation enforcing compliance, most private sector firms appear to recognise their societal role in contributing to counter-terrorist activities. However, implementation and operation of the measures may present challenges. An obvious challenge is meeting the cost of such measures. The cost of meeting AML regulation by UK firms has been estimated at £274 million per year, which is 40% of the total cost of financial regulations on the sector (FSA, 2006), with the cost of proving the identity of customers put at £2 per customer (PriceWaterhouse Coopers, 2007). For the charter travel industry alone, complying with e-Borders regulations is estimated to cost £13 million cost per year, with the only modest savings from the removal of boarding cards (Airline Business, 2008).

This study takes a strategy-as-practice perspective to investigate the organisational challenges of addressing counter-terrorism legislation by private sector firms. In the first phase of research reported here, key informant interviews are used to explore the organisational consequences of the new legislation, by identifying the tensions that arise from being required to carry out such societal obligations alongside traditional commercial activities. Theoretically, the research draws on ideas on framing management theory in relation to tensions in good management practice (Huxham and Beech, 2003).   The following section introduces the two areas of legislation that affect the sectors of interest. A discussion of the theoretical background to the work follows; the methodology adopted is then described; the preliminary findings are presented and discussed, and plans for future work outlined.

2. The Changing Context for the Financial Services and Travel Sectors in the UK

2.1 Anti-Money Laundering (AML) and Counter-Terrorism Financing (CTF)

UK Financial services organisations are required to monitor customers' account activity in order to identify possible money laundering (FSA, 2003) or terrorist financing. When suspicious activity is identified, the firm must report it by sending a Suspicious Activity Report (SAR) to the Serious Organised Crime Agency (SOCA), which will investigate and take appropriate action. Money laundering is when individuals actively disguise the origins or ownership of money. This is usually because the money originates from an illegal activity such as drug trafficking, prostitution or robbery. In contrast, in the financing of terrorism, funds do not necessarily arise from illegal activities, can be collected from legal sources and are "legal up until it has been used to commit an act of terrorism" (Vlcek, 2008 p.25).

AML and CTF legislation require financial organisations to appoint a named Money Laundering Reporting Officer (MLRO), who is responsible for AML and CTF activities within the organisation. Depending on the organisation's size, this person may work alone, or they may be supported by a significant number of staff. The requirement to detect suspicious activity means that financial service firms must be able to identify normal patterns of behaviour so that they are able to identify patterns outside of these (Canhoto and Backhouse, 2007). Given the very high volumes of transactions in most financial service firms, many have opted to use information technology-based systems (Gill and Taylor, 2003), which utilise data mining techniques to identify unusual activities or patterns of behaviour.

2.2 The e-Borders Programme

The e-Borders programme is being implemented by the UK Border Agency (UK BA), which is part of the Home Office. The intention is to collect and analyse passenger, service and crew data from air, sea and rail operators that provide services into or out of the UK. This information has to be provided at least 24 hours in advance of travelling and is used *"to support an intelligence-led approach to border control" (*UK BA, 2009). It is the travel operator's responsibility to collect and electronically transmit the required data to the UK BA's central data processing and storage centre. The data are then checked against watch lists and analysed for unusual patterns of travel. Where necessary, alerts will be generated for border staff, including police, immigration and customs officers. Hence, the obligations on travel firms are slightly different to financial services firms. Financial services firms must identify suspicious activity themselves and report this to SOCA, whilst the travel operators are not required to identify suspicious activity themselves, but must collect data and submit it to the UKBA.

Whilst the intention of the e-Borders programme is to collect data on all passengers, there have recently been problems with EU data protection and privacy laws around the collection and transmission of this data on passengers within the EU. Although the e-Borders desire to collect passenger data has not been judged illegal, the current EU ruling states that travel firms will be required to allow passengers within the EU to opt out of the programme (see Home Affairs Committee, 2009).

3. Theoretical Background

This study explores the challenges of addressing counter-terrorism legislation by private sector firms, with a particular focus on the staff being affected by the new rules and legislation. As the findings will demonstrate, the new external environment can provide the employees of financial services and travel organisations with very real 'tensions' in terms of the decisions that they make at work, and leave them with potentially contradictory indicators as to how they should carry out their roles.

In their work on 'good management practice', Huxham and Beech (2003) explicate a way of framing management theory in terms of "*tensions* between apparently contradictory pieces of good practice advice". They note that in their research, "raising awareness of the types of tension that frequently arise can enhance practitioners' ability to manage them in a considered way in their particular situation. Many have commented that simply understanding that there are no easy answers is empowering". Conceiving of tensions as a means of providing conceptual handles to aid the process of reflective practice, Huxham and Beech identify some of the characteristics of 'good practice tensions', which include the notion of extremes on a scale of possible courses of action, which can be reformulated, creative responses sought, and so forth. This discussion moves from the simple notion of countervailing forces, towards a "much more complex world of multiple interacting tensions" (Huxham and Beech, 2003, p.83).

The preliminary phase of research reported here is designed to underpin two stages of work during 2010 that will complete the project. The second phase uses an on-line survey to explore the uses of customer data in the financial services and travel sectors. This employs an existing and proven research instrument (Dibb and Meadows, 2004) to examine any cross fertilisation between profiling for attractiveness and security. The third phase will uncover resultant changes in the roles of key staff, via a qualitative case study methodology (Yin, 1989; Eisenhardt, 1989). It will focus on an in-depth exploration of the roles of staff such as those in customer facing jobs, as well as marketing and CRM experts who are charged with gathering and analysing customer data.

A strategy-as-practice perspective will therefore be adopted; strategy, according to this view, is not something that an organisation *has* but something its members *do* (see for example Johnson et al, 2003). As Jarzabkowski et al (2007) have noted, "in order to understand human agency in the construction and enactment of strategy it is necessary to re-focus research on the actions and interactions of the strategy practitioner". Whittington (2006) proposes that three elements of theory of practice may be isolated: praxis, practices and practitioners. Jarzabkowski (2005) suggests that each of these three elements comprises a different analytic choice and entry into the study of strategy as practice. First, *praxis* is "an emphatic term to describe the whole of human action" (Reckwitz, 2002, p.249). Vaara et al (2004) note that praxis might be studied at the institutional level (for example,

merger and acquisition behaviour within an industry), or at the micro-level of a particular individual or group of individuals engaged in merger and acquisition activity. *Practices* are defined by Reckwitz (2002, p. 249) as "routinized types of behaviour which consists of several elements, inter-connected to one another: forms of bodily activities, forms of mental activities, 'things' and their use…". The third and final element is the practitioners: the actors, who draw upon practices to act. Practitioners shape strategic activity through *who* they are, *how* they act and *what* practices they draw upon in that action (Jarzabkowski et al, 2007). The final stage of this study will use this conceptual framework of praxis, practices and practitioners to inform the exploration and investigation of how counter-terrorism legislation is being addressed by firms in the two sectors of particular interest.

4. Methodology

Due to the recent and dynamic nature of the phenomenon, and hence the limited previous literature, this first stage of the study is exploratory. A research methodology was designed, based on a number of in-depth interviews with a range of key informants in the two industry sectors (Kumar et al, 1993). In total, interviews were undertaken with fourteen key informants from twelve organisations. Eight informants were from the financial services sector and included retail and investment banks and trade bodies. Six informants were interviewed in the travel sector, which included a tour operator, a carrier, a trade body and staff from the UK BA who are implementing the e-Borders programme. Informants were identified due to their particular knowledge of the subject, for example by being mentioned in the press. A snowballing technique was subsequently adopted, with earlier informants asked to suggest others that were experts in the field.

Interviews lasted from one hour to four hours and followed an interview guide. Where possible, the interview was recorded and fully transcribed. When this was not possible, contemporaneous notes were taken. Interview data were supplemented by examination of organizational documents (Denzin and Lincoln, 1998), where these had been provided or were publicly available.

An inductive approach to data analysis was then adopted. The interview transcripts were read independently by three researchers who each independently coded the data using a tabular layout in a word processing package. An open coding approach (Strauss and Corbin, 1990) was used in which the data was broken down into categories and sub-categories, such as: cost of regulatory compliance (category): cost of IT systems (sub-category). The three coding schemes and the associated coding were then compared. Few differences of interpretation were identified. Where this did occur, a reconfiguration was undertaken in order to result in a single coding of data.

5. Preliminary Findings: Organisational Tensions

A number of the informants in both sectors described how they and their organisations found a tension between meeting their obligations under the respective legislation and commercial issues. For example, one interviewee commented that *'there is a constant battle between maintaining the welfare of the firm by addressing our AML obligations, and the welfare of consumers'* [Interviewee 1, trade body]. Another noted that *'AML work interferes with commercial issues* [Interviewee 2, financial services sector]. Analysis of the interview transcripts identified four particular areas of tension. These were: between the firm and its customers, between the individual employees and the nature of their work, between the organisation and government and between the incumbent firms within an industry sector. Each of these tensions, together with supporting data from the interviews is discussed below.

5.1 Between the Firm and its Customers

Some of the financial services sector informants described how the need to report suspicious activity, which might result in the customer's transaction being either delayed or denied completely, was at odds with the rest of their operations, which sought to provide prompt, reliable service to customers. The financial services provider cannot inform the customer that they have been reported or tell them why the transaction will not be completed, since 'tipping off' is judged illegal. This makes the apparent lack of customer service more extreme and has the potential to damage customer relationships.

"In the corporate world, if a client wants to transfer £50 million to another organisation, they must notify their bank beforehand. The bank then has to apply to do this from SOCA. SOCA assesses the possible transaction and the likelihood that it might be fraudulent. There is roughly an 87% approval rating where the transaction is allowed to be completed. Of the 13% rejections there is no appeal. Banks must tell their clients that they are not in a position to perform the transaction – but not why. If, as some organisations have done, they start legal action against the bank they will then realise that they have been reported for suspicious activity." [Interviewee 3, financial services sector]

Similar situations can arise in the travel sector. Travel firms will pass data about all passengers to the UK BA. The UK BA uses the data to identify passengers that should be allowed to enter or leave the UK. Often it falls to the travel firm to inform the passenger that they will not be allowed to travel.

"In the future, e-Borders is likely to be developed to include an 'Authority to Travel' system. In this, carriers will be required to check passengers against a 'watch list' of who cannot be brought into and out of the country – and they will be prosecuted if they do transport these passengers. This systematises the currently more informal approach where carriers can check any passenger they are concerned about transporting with a local immigration officer." [Interviewee 4, government employee]

E-Borders will require travel firms to collect certain data from their customers. Some firms, such as the large established air carriers, already collect much of this data. However, smaller travel firms do not currently collect such passenger travel details, particularly when a large party is travelling together. Informants in the travel industry expect that the requirement to collect additional data will take significant extra time, once again damaging the customer's perception of service quality:

"It is more work for the travel agents. It adds at least 15 minutes to the customer service encounter, no matter what medium.'"   [Interviewee 5, industry body]

5.2 Between the Individual Employees and the nature of their Work

The obligations placed on financial service firms require them to identify suspicious transactions. Whilst many firms use software to identify unusual patterns, relevant staff must undergo AML and CTF training and be alert to spotting unusual transactions. For some staff, these requirements are in tension with the very nature of the job they do and hence the type of individual who is attracted to the job.

"*All staff are trained in AML on recruitment and refreshed every two years. However, they are focussed on doing deals and have very short-term memories – they can't even remember in the afternoon, the details of the deals they did in the morning."* [Interviewee 6, financial services sector]

Customer-facing staff in retail banks must also balance the tension of identifying suspicious activity with other aspects of their role, such as building and maintaining customer relationships. If a customer is undertaking an unusual activity, such as withdrawing a large amount of cash, then staff must ask for the transaction to be explained. Whilst most customers will respond to a friendly enquiry, some do not welcome having staff probe areas they view as private or sensitive. The dual role that staff are required to carry out has been described in the US where there similar regulations, as "*imposing a citizen-soldier burden on the gatekeepers of the financial institutions'* since '*in many respects they are in the best position to police attempts by people who would do ill."* [General Counsel, US Treasury Department].

5.3 Between the Organisation and its role in Society

Whilst some informants recognised that their firms should take the role of good citizens and actively contribute to addressing societal challenges, others were not so positive:

"In the case of AML, the government are palming off jobs on to the private sector that they didn't want to do because it's so time consuming and expensive."   [Interviewee 6, financial services sector]

"There is a moral obligation on behalf of the bank to ensure good practice – the role of the good citizen. However, ultimately banks are not interested in this good citizen role. There are no obvious benefits to the organisation of applying AML measures." [Interviewee 7, financial services sector]

In some cases, the need for this activity was recognised, but it did result in firms spending significant sums of money to address issues outside of their core commercial priorities:

"*Risk management and fraud management are big issues at the present time but there is more time and money being spent on 'overheads', such as regulation and AML, than on sales*'" [Interviewee 8, financial services sector]

Interviewees also described how the lack of clarity about new regulations caused additional tensions. This was particularly evident in the e-Borders programme, where a ruling from the EU after the programme was underway, meant significant changes to the implementation work firms in the industry had already undertaken, as well as to the systems which had been developed for the purpose.

5.4 Between Incumbent Firms

The costs incurred in complying with the requirements of both AML and e-Borders, which can be significant, cause differential impacts on incumbent firms in the two sectors. In the case of the information required for e-Borders, the major legacy carriers already collect this information:

"The legacy schedule carriers already have online check in which gathers the required information so it's not much trouble for them." [Interviewee 9, trade body]

However, other operators do not already collect the required data, and will have to find ways of addressing the new requirements:

"For small carriers, e.g. small airlines on Greek Islands – they could buy a scanner on the internet that could read the MRZ data on passports and transmit this over the internet to the UK." [Interviewee 10, industry body]

Informants also noted that there was not a level playing field between incumbent firms due to the significant costs involved in meeting the regulations, with smaller organisations finding it more difficult to support the necessary investments in information systems, dedicated staff and training.

 "It is not a 'level playing field', the costs can be enormous, for instance, the installation of new system as there is often a need for a significant system to capture data".   [Interviewee 1, trade body]

"Basically, the bigger the organisation the more time is spent on AML. For example, [name of large bank] *probably have a team of 2,000 working on it. Smaller organisations probably are busy with the everyday running of things and may not have a staff member who concentrates solely on AML, instead their time is split between it and other duties."*   [Interviewee 3, financial services sector]

6. Discussion and Future Research

This study is investigating the organisational challenges of addressing counter-terrorism legislation by private sector firms. Results from preliminary key informant interviews have been reported and important organisational tensions underlying management practice described. Huxham and Beech (2003) give two examples of case studies where the actors involved have tried to 'deconstruct' the tensions they are facing, i.e. they have 'built theory' about specific tension areas. This involves spelling out what was in the area of tension, which was perhaps not immediately obvious. It may include diagrammatic representation, or the use of some of the language and characteristics around tensions that Huxham and Beech have identified (e.g. the adoption of an *intermediate position* between two *extremes*, or the need to *seek a creative response*). If carried out by practitioners reflecting on their own experience, the theory developed may lead to personal learning and may be situation specific. Alternatively, if carried out by researchers, the theory may stand up to broader debate and be generalisable to a range of situations.

The notion of tensions will be carried forward into the final stage of the research, where in-depth case studies will be used to explore any resultant changes in the roles of key staff such as those in customer facing jobs, as well as marketing and CRM experts, drawing upon the conceptual framework of praxis, practices and practitioners (Jarzabkowski et al, 2007).

References

Airline Business (2008), "Airlines Prepare for UK e-Borders", November 24th.

Canhoto, A and Backhouse, J (2007), "Profiling under Conditions of Ambiguity – An Application in the Financial Services Industry", *Journal of Retailing and Consumer Services,* Vol. 14, p.408-419.

Denzin N, Lincoln Y. (eds) *Strategies in Qualitative Inquiry.* California: Sage; 1998.

Dibb and Meadows (2004), Relationship marketing and CRM: a financial services case study, *Journal of Strategic Marketing*, 12: 111-125.
Eisenhardt, K.M. (1989), "Building Theories from Case Study Research", *Academy of Management Review,* 14(4), 532-550.

FSA, Financial Services Authority (2003), "Reducing Money Laundering Risk – Know Your Customer and Anti-Money Laundering Monitoring", London.

FSA, Financial Services Authority (2006), "Real Assurance Risk Management, Estimation of FSA Administrative Burdens", London.

Gill, M and Taylor, G. (2003), "Can Information Technology help in the Search for Money Laundering? The View of Financial Companies", *Crime Prevention and Community Safety,* p.39-47.

Home Affairs Committee 2009,
http://www.publications.parliament.uk/pa/cm200910/cmselect/cmhaff/170/170.pdf

Huxham, C. and Beech, N. (2003), "Contrary Prescriptions: Recognising Good Practice Tensions in Management", *Organization Studies,* 24 (1), 69-93.

Jarzabkowski, P. (2005), *Strategy as practice: An activity based approach.* London: Sage.

Jarzabkowski, P., Balogun, J. and Seidl, D. (2007), "Strategizing: The challenges of a practice perspective", *Human Relations*, 60(5), 5-17.

Johnson, G., Melin, L. and Whittington, R. (2003), "Micro strategy and strategizing: Towards an activity-based view?", *Journal of Management Studies,* 40(1), 3-22.

Kumar, N; Stern, L.W and Anderson, J.C (1993), "Conducting Interorganizational Research Using Key Informants", *The Academy of Management Journal,* 36 (6), 1633-1651.

PriceWaterhouse Coopers (2007), "Anti-Money Laundering Current Customer Review Cost Benefit Analysis", London.

Reckwitz., A. (2002), "Towards a theory of social practice: A development in cultural theorizing", *European Journal of Social Theory,* 5(2), 243-263.

Strauss AL, and Corbin J. *Basics of qualitative research: grounded theory procedures and techniques.* Newbury Park: Sage; 1990.

UK Border Agency (2009), "e-Borders: Your Questions Answered", Home Office, London.

Vaara, E, Kleyman, B. and Seristo, H. (2004), "Strategies as discursive constructions: The case of airline alliances", *Journal of Management Studies,* 41(1), 1-35.

Vlcek, W (2008), "A Leviathan Rejuvenated: Surveillance, Money Laundering, and the War on Terror", *International Journal of Political Cultural Sociology,* Vol. 20, p.21-40.

Whittington, R (2006), "Completing the practice turn in strategy research", *Organization Studies,* 27 (5), 613-34.

Yin, R.K. (1989), *Case study research: design and methods,* Newbury Park, CA: Sage.