Lobbying the European Union: Institutions, Actors, and Issues

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Chapter 8

Business Lobbying in the European Union

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8.1. Introduction

Business lobbying is an ever present reality in European Union (EU) politics. With their significant economic and informational resources, business interests are able to exert influence along the European policy process from initiation and ratification of policy at the Council of Ministers, agenda-setting and formulation at European Commission (EC) forums, reformulation of policy at the European Parliament (EP) committees, to the final interpretation, harmonization, and implementation of regulation in the nation state. In being one of the few actors to follow all points of the policy process, business interests are an important supply of information for the development and delivery of EU public policy, and a potential source of legitimacy to policy-makers.

Ever present at the formation of the European Community and Union, political activity by businesses exploded in the 1990s, building on access afforded by the single market programme and the creeping EU regulatory competencies (Mazey and Richardson 1993; Coen 1997, 1998). In response to this increasingly crowded and competitive lobbying environment, business interests have evolved new direct lobbying strategies (Coen 1997, 1998), collective action arrangements (Eising 2007; Greenwood 2007), complex political advocacy alliances (Coen 2002; Mahoney 2007), and adapted national interest models (Grossman 2004; Beyers and Kerremans 2007). Accordingly, business interests have matured into sophisticated interlocutors that often have more awareness of inter-institutional differences than the functionaries they lobby. The result is EU interests now have unparalleled access and understanding of the multi-level governance structure and lobby with a multitude of political voices. Albeit, this unprecedented lobbying explosion provided legitimacy for the European integration programme, it also has put a strain on the openness
and transparency of EU policy-making, and pressure for the creation of rules and regulation of interest representation (Commission European Transparency Initiative 2006). However, as a result of the multi-level and institutional lobbying it is important that policy-makers and academics can first and foremost map business interest inputs across the whole policy process. Today we are faced with how EU institutions can manage and regulate the expanding numbers of interests and conversely how business interest groups can continue to influence and contribute to the EU public policy process in a positive and constructive form. Few would question the importance of business interest groups to facilitate policy, advocate positions, provide expertise, and at times scrutinize authority. What is more difficult to agree is how we monitor and regulate their access to the policy process without constraining information exchange and political contest. To understand these normative questions it is first important that we identify: how firms lobby along the policy cycle and between EU institutions, firms’ logic of collective and direct action, and how government affairs functions have evolved to coordinate the above.

8.2. The evolution of European business lobbying

EU interest group activity exploded in the 1990s, as a result of the gradual transfer of regulatory functions from member states to the EU institutions, and the concurrent introduction of qualified majority voting on the single market issues. In parallel with this increasing functional supply, institutional demand for EU interest group activity was facilitated by the openness of the EC and EP (Commission 1993a) and the funding of EU groups by the EC. The bare facts speak volumes for the ease of access to the EU institutions during this period, with an estimated 1,400 economic interest groups operating at the European level (Greenwood 2007; Berkhout and Lowery 2008), and some 350 firms with European affairs offices (Coen 1999).

In the last decade many have studied why interest groups came to Brussels and how they attempted to influence the EU policy process (Kohler-Koch 1994; Coen 1997, 1998, 2007; Greenwood 2002a, 2007; Eising 2004, 2007). These studies recognized that regulatory rent-seeking motivated EU interest politics, just as for their cousins in Washington, but they also noted that distinct collective action bodies of studies identified that the gradual transfer of regulatory functions to the EU institutions contributed to the Europeanization of interest politics, the second wave of interest studies attempted to understand the uniqueness of the EU institutional and interest relationship and the emergence of elite pluralism (Bouwen 2002, 2004; Broschek and Coen 2007; Coen 2007; Eising 2007).1

Today, we are faced with a need to understand how the emergence of individual direct action has impacted on traditional forms of collective action (Coen 2007), and second how we can regulate this complex interest representation. Significantly, the recent explosion of lobbying in the EU has not seen increases in traditional interest organizations like trade associations or NGOs but in individual lobbyists such as companies and law firms. It has been estimated that some 40 per cent of all interest representation at the Commission and the EP would now appear to be individual actors (firms (24%), think tanks (4%), government/regional authorities (11%), law firms, public relations companies, etc.) rather than interest group organizations (CONECCS 2007 and EP 2007; Lahnmann 2002; Berkhout and Lowery 2008). In view of this, new studies need to observe strategic games between individual interests and collective groups, firms and firms, and between firms and traditionally countervailing public interest groups (Broschek and Coen 2007; Eising 2007; Mahoney 2007). But new transparency regulation must also monitor how individual lobbyists may also fund and participate in alternative collective action arrangements to access the EU institutions.

To illustrate how the new EU individual lobby mobilizes, this chapter tries to describe and analyse how individual firms lobby in the EU and how their behaviour has developed, so that we can assess how to regulate and monitor lobbying more generally in the future. The analysis is rooted in two surveys completed in 1994/5 (n=50) and 2004/5 (n=50) of 200 firms with European Government affairs functions in Brussels. Using this empirical evidence, the chapter pursues the idea that large firms have developed sophisticated EU political affairs functions that are capable of complex political alliances and EU identity building in response to EU institutional informational demands and access requirements.

8.2.1. Learning to lobby: The business lobbying explosion of 1984–94

The original study showed that, between 1984 and 1994, over 200 companies chose to develop direct lobbying capabilities in Brussels. More specifically, Figure 8.1 demonstrates that over this ten-year period the locus of political activity shifted away from national and towards European institutional channels. A parallel trend was the general tendency of firms to favour direct individual representation at the national government (Govt), Ministry (N. Civil), EC, EP as opposed to using intermediaries such as professional lobbyists (Lobby) and national associations (N.Ass.). However, there was an early realization by business that all the channels were mutually reinforcing and that a holistic approach to lobbying involving national and regional government and all EU institutions along the policy process was most effective.

The most favoured political channel was to lobby the Commission directly, with about a quarter of the significance of all political activity attributed to this. While much of this increased activity can be explained by the single market legislative boom acting as a pull factor, it should be noted that
Gradually it became apparent that large firms that wished to exert a direct influence on the European public policy process would have to marshal a greater number of skills than merely monitoring the progress of European directives and presenting occasional positions to the EC. Successful lobbying of the EC meant establishing an organizational capability to coordinate potential ad-hoc political alliances and to develop and reinforce existing political channels at the national level and European level. To achieve good access for direct lobbying of the EC – the primary focus – large firms were encouraged to develop a broad political profile across a number of issues and to participate in the creation of collective political strategies. Accordingly, the cost of identity building would be discounted against better access to ‘company specific’ issues at a later forum or Committee. Significantly, during this period of norm creating, some firms were establishing themselves as political insiders through a process of regular and broad-based political activity. It was these new insiders which stood to benefit most from the gradual closing down of access to the EC in face of the interest overload in the 2000s.

Recognizing that the political take-up of political channels was influenced by cost considerations and that companies were faced with an internal budget constraint it is fair to assume that the importance of cost grows with increases in the uncertainty of the political returns associated with a political channel. As a direct consequence of this uncertainty, the usage of channels in Europe has built up only slowly and has required large institutional and market changes to become decisive. Political change is particularly slow in periods of recession – when corporate affairs budgets are the first to be cut back. Moreover, whilst the establishment of government affairs units has reduced some of the information transaction costs and facilitated an understanding of EU institutions, the constant evolution of many of the political institutions inhibited the full adoption of all the available political channels.

This was illustrated by the slow lobbying take-up of the EP after the Maastricht Treaty. While many interviewees in the 1984–94 periods recognized the increasing policy-making powers of the EP and the emergence of new lobbying opportunities, the reality was that until a time when they had additional resources or they had suffered a clear cost of non-participation, the focus of lobbying would continue to be the EC. In this period, the low lobbying take-up was clearly a legacy of past reputation. In fact, until Maastricht the EP had only had a limited consultation role and the impact of co-decision and conciliation was still to impact many lobbyists. Rather, the reluctance to commit resources to lobbying the EP was attributed to the ambiguous political outcomes of EP committees and the risk of log-rolling at the Strasbourg vote.

To firms used to lobbying in the EC on technical expertise and information exchanges, the more socially and politically aware EP was also seen as too uncertain and marginal to the agenda-setting and formulation process. Significantly, this perception was also changed during the late 1990s with some
Committee contributions, most EU interest studies have focused on the trade associations and the visible logic of collective action (Eising 2007; Greenwood 2007). However, if we are to define codes of conduct and create database of institutional lobbying activity it is important that we have a clear understanding of how and when interests make representation across the policy process and for different policies.

Figure 8.2, as Figure 8.1, clearly illustrates that a number of mutually reinforcing political channels are utilized to influence the EU public policy process. However, the timing, take up, and the style of activity have altered as EU procedural rules have changed and EU interests and functionaries learned to trust one another.

Regardless of treaty changes and the slowing legislative outputs of the EU, the EC continues to be the primary focus of lobbying activity in Brussels both directly and/or via trade associations. However, while the Commission is still recognized as the policy-entrepreneur and exerts a huge influence on the formulation of the directive – via initiative, consultation, and increasingly at triad, it has, via its discretion to invite or exclude interest, been able to demand behavioural criteria for the participation in its more exclusive policy forums and committees. Thus, the most significant development in lobbying in Brussels over the last 20 years has been the emergence of an elite pluralist arrangement where industry is perceived as an integral policy player but must fit certain access criteria (Coen 1997; Coen 1998; Bouwen 2002; Schmidt 2007).

The recognition of the existence of elite pluralism raises the important tension between ‘political’ and ‘policy’ legitimacy that the new EU lobbying transparency debates often fail to explore. Significantly, the regulatory agency style of Brussels policy-making has produced the emergence of an elite pluralist arrangement.
trust-based relationship between insider interests groups and EU officials. Accepting the rationale to delegate regulatory competencies to the EC in terms of credible commitment, blame avoidance, and market expertise, the policy-making legitimacy of the EC is seen to be high by most EU interests. Within this credibility game the Commission makes much of its attempts to build long-running relationships with interests, based on consistency for information exchanges, wide consultations and conciliatory actions. Conversely, interest must develop strategies that create reputations that will help them to gain access to the closed decision-making arenas. The result of this discretion politics is that policy-making in Brussels is reliant upon both social capital and deliberative trust. Faced with these specific depoliticized institutional arrangements, it is important that we build accountability and transparency arrangements that take account and foster trust building, credibility, and institutional discretion. However, where policy is more distributive we will expect to see greater consultation and perhaps a form of Camilion pluralism (see Chapter 16).

In fact, contrary to the perception of aggressive lobbying of bureaucrats suggested in the popular media, EU lobbying and business representation is often characterized by institutions seeking out and in some cases funding interest groups and ad-hoc alliances. A study by Broscheid and Coen (2007) illustrates this by showing how interest group and Commission preferences for forums and/or direct action are a function of the informational demands of the Directorate, number of interests, and capacity to process interest group inputs, balanced against the ‘input’ and ‘output’ legitimacy requirements of the policy domain. Moreover (see Table 8.1) in highly regulatory policy areas, where technical policy input defines the policy legitimacy and staffing numbers are low, they hypothesize that the Commission creates forums and committees to manage lobbying activity. Equally significant, as Table 8.1 shows, the greatest lobbying activity is clustered a round the Enterprise and Environmental Directorates General as these have the greatest regulatory output and competencies. It is therefore important that we do not attempt to see business lobbying of the Commission as a single strategy and only collect access and frequency of contact data for individual institutions, but rather assess interest access to the whole EU policy cycle and across policy types.

Building on this integrated lobbying strategy and recognizing the creeping competencies of the EP, direct lobbying of MEPs and EP civil servants increased by 100 per cent from 1994 to 2005. Moreover, new EU lobbying strategies emerged and greater professionalism in the exchange of information between EP officials and business representation evolved. As expected the greatest lobbying activity has emerged in committee secretariats where co-decision applies—such as single market and environmental legislation (Lehmann 2008; Chapter 3, this volume). Accordingly, the greatest activity has tended to mirror the EC’s legislative activity and a strong argument for monitoring interest groups access to both institutions should now be made. However, while much of the political capital of business interests is their understanding of technical issues and the input legitimacy that this provides at the EP’s wider political considerations apply.

In such a complex environment, we have seen business interests reformulate or re-emphasize economic competitiveness arguments to focus on wider public goods such as regional employment consequences or create wider issue linkages – this was perhaps most visible during the pharmaceutical patent debates in the early 2000s. However, the more substantial difference, between the Commission’s bureaucratic discretionary model and the Parliament’s political environment, is the growing use of the economic media and public opinion in lobbying the EU (Earnshaw and Judge 2006).

The previous sections discuss the institutional characteristics that have determined business lobbying preferences, but equally important is the nature of the policy being formulated and the type of institutional legitimacy required to deliver regulations (Lowi 1964; Scharpf 1999; Hix 2003). In the EU public policy context, Figure 8.3 illustrates the huge variance in business political activity across regulatory and distributional issues and policy cycle (Coen and Broscheid 2007). As hypothesized, at the formulation stage preference is for direct lobbying of the EU institutions and is supported by the potential sector consensus building activity at the European Federations. However, in line with subsidiary, transposition, implementation, and
interglation of directives are still very much in the domain of the national regulatory authorities (NRAs). Hence we see in the recently liberalized sectors of telecommunication, energy, and financial securities a higher degree of political budget going into lobbying the NRAs and the new European networks of NRAs (Coen and Thatcher 2008), rather than the EU institutions.

In looking for variance in allocation between national and EU lobbying channels, we must look at the formal and informal delegation of policymaking powers to the EU (Pollack 2003; Franchino 2005). In policies where the outcome is creating market standards which harmonize trade and competitiveness, we would expect post-Maastricht to see a high EU profile, while issues that touch on sovereignty such as fiscal and justice and home affairs issues are not surprisingly still dominated by domestic lobbying. We would also expect to see a distinction in lobbying strategy depending upon whether the market regulations were product or process regulation as the incentives to collaborate or go it alone will vary dramatically in the nature of the common good available (Hix 2005).

In sum, any studies of business-government relations must take account of the nature of the policy good, political delegation, and the policy-cycle. Moreover, as access to different EU institutions requires different access strategies we have seen the creation of new political alliances. As a result, it is sometimes hard to identify who is actually lobbying and how many times they have told their message to different Commission forums, Parliament committees, and national permanent representations. Hence, rather than collecting data for individual EU institutions, future lobbying studies should attempt to follow the lobbying footprint of a directive across the policy life-cycle and audit the institutions and individuals who are lobbied.

![Graph](image)

**Figure 8.3.** Variance in business lobbying along policy process and issue.

*Source: Coen (2005)*

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**8.3. Business-government relations: An EU business logic of political action**

Business lobbying is booming in Brussels. Between 1983 and 2003 the number of firms with European government affairs offices rose dramatically from an estimate of 50 in 1980, to 200 in 1993, and an all-time high plateau at 350 in 2003 (see Butt-Phillip 1999; Landmarks Publications 2003; Coen 1997, 1999). During this 20-year period, US companies, such as Ford, GM, and IBM, British and Dutch multinationals such as BT, Phillips, and Shell and major EU conglomerates such as Fiat and Daimler-Benz established a significant political presence in Brussels and were instrumental in the EU integration process (Sandholz and Zysman 1989; Cowles 1995, 1996). Today, as Figure 8.4 illustrates, a variety of companies from most of the EU’s 27 members lobby in direct competition with US, Japanese, Swiss, and South Korean businesses for access and influence. Significantly, regardless of origin, a distinct EU public policy and lobbying logic has emerged in Brussels (Coen 1999, 2002, 2007; Woll 2006; Hamada 2007).

![Pie Chart](image)

**Figure 8.4.** Firms with public affairs offices 2003.

*Source: Landmarks Publications (2003)*