

EU Lobbying: Empirical and Theoretical Studies

Edited by
David Coen

EU Lobbying: Empirical and Theoretical Studies

EU Lobbying: Empirical and Theoretical Studies offers an analysis of large empirical studies of interest group politics and Lobbying in Europe. Recognising the continued European economic integration, globalisation and the changing role of the state, it observes significant adaptations in interest mobilisation and strategic behaviour.

This book assesses the logic of collective and direct action, the logic of access and influence, the logic of venue-shopping and alliance building. It addresses specific issues such as:

- the emergence of elite pluralism in EU institutions,
- the pump priming of political action by EU institutions, and
- the growing political sophistication of private and public interests in Brussels.

Through these issues the book explores how interest groups lobby different European institutions along the policy process and how the nature of policy dictates the style and level of lobbying.

This book was previously published as a special issue of *Journal of European Public Policy*

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Empirical and Theoretical Studies in EU Lobbying

David Coen



1. INTRODUCTION

In the last 20 years there have been a huge number of empirical studies of interest representation in the European Union (EU) (Butt-Phillip 1985; Mazey and Richardson 1993; Andersen and Eliassen 1995; Greenwood 1997, 2003; Van Schendelen 2002; Woll 2006a), the bulk of which sought to understand the Europeanization of interest groups (Richardson 2000; Coen 1997; Beyers 2002, 2004) and/or the role of interest groups in the multi-level European governance structure (Kohler-Koch and Eising 1999; Kohler Koch 1994; Grande 1996). While few grasped the measurement of influence, good progress has been made in mapping the access to the EU policy process (Coen 1997, 1998; Bouwen 2002, 2004a), and developing a rationale for the utilization of political channels (Eising 2004; Saurugger 2003). Nonetheless, while a few of these projects attempted to construct large N studies of interest action in the EU (Coen 1997, 1998; Kohler-Koch and Eising 1999; Eising 2004; Beyers 2002, 2004), the majority have focused on smaller case studies of specific policy domains (Bouwen 2002, 2004a; Maloney *et al.* 1994, Geddes 2000;

Warleigh 2000, 2001).¹ As the study of European interest politics matures, it is paramount that we shift from these exploratory and descriptive studies to more confirmatory theory testing (Franchino 2005).

The EU interest literature, having recognized what pulled interests into the European public policy orbit, must now explain what current institutional demands define interest behaviour, and what political goods EU interest groups supply to the policy process. Accordingly, if we are to concentrate on the formal aspects of model building in European interest politics, we must now complement this with rigorous empirical tests of the models. As Baumgartner and Leech (1996: 565) observed 'Good theories deserve good data.' This volume is modest in its goals, and does not attempt to build a universal EU interest group theory. Rather, it presents a number of large empirical studies that attempt to grapple with this new research agenda, and provides a foundation for more encompassing and comparative EU interest politics studies in the future. In so doing, the volume raises questions and explores the logic of collective and direct action (Beyers and Kerremans 2007; Eising 2007), the logic of alliance and identity building (Mahoney 2007; Beyers and Kerremans 2007; Hamada 2007), the logic of access (Broscheid and Coen 2007; Bouwen and McCown 2007), and the logic of venue shopping (Bouwen and McCown 2007; Beyers and Kerremans 2007; Schneider *et al.* 2007).

2. INSTITUTIONAL DEMANDS ON INTEREST GROUP ACTION

Interest groups are a familiar if not always welcome reality in western politics, but most political scientists recognize that public and private interests have a legitimate and important role to play in the public policy process (Richardson 2000; Warleigh 2001). Nowhere is this truer than in European public policy, where 15,000 Commission and European parliamentary officials face 20,000 lobbyists on a daily basis (Greenwood 2002a; European Commission 2001). It is therefore not surprising that a significant *resource dependency* between officials and lobbyists based on regulatory needs, expertise, information and reputation has emerged in the European public policy process (Broscheid and Coen 2007; Bouwen and McCown 2007; Mahoney 2007).

The gradual transfer of regulatory functions from member states to the EU institutions in areas such as product quality, health and safety, employment and competition law, and environmental standards has contributed to the Europeanization of interest groups (Young and Wallace 2000; Mazey and Richardson 2006). Faced with the increased regulatory competencies of the EU and the concurrent introduction of qualified majority voting on Single Market issues, interest groups and lobbyists increased dramatically in number and level of activity throughout the 1990s (Greenwood 2002b, 2003). The bare facts speak volumes for the ease of access to the EU institutions, with an estimated, 1,450 formal interest groups operating at the European level (Greenwood 2003), 350 firms with European affairs offices (Coen 1997, 1999), and 267 law and public affairs firms active in EU public policy (Lahusen 2002,

2003). While much of this action can be explained in functional terms, there is strong empirical evidence presented in this volume for EU institutions acting as coercive isomorphic forces for change and the creation of a distinct EU interest politics model.

As the agenda-setter, the Commission is the primary focus of much of the above lobbying activity (Cram 2001; Pollock 2003); however, access to the Commission, for all its attempts at wider consultation and public interest group funding, continues to be biased towards business interests. In hard statistics, it is estimated that business and professional organizations represented approximately 76 per cent of EU interest groups compared to 20 per cent of public interest groups (Greenwood 2003). This ratio is complemented by recent figures from the European Parliament (EP), which assert that of the 5,039 accredited interest groups 70 per cent are business oriented and 20 per cent are non-governmental organizations (NGOs) (European Parliament 2003).² However, these statistics are only part of the picture, as business groups have a comparative advantage in terms of organizational capacity, financial resources, expertise and information. This insider status and resource advantage of business has led many to call EU interest politics an *élite pluralist* environment (Coen 1997, 1998; Bouwen 2002; Woll 2006b; Schmidt 2006b; Mazey and Richardson 2006).³ Eising (2007) explored the concept of *élite pluralism* via a survey of 800 business associations and 34 firms, and unsurprisingly concluded that firms and EU associations have become regulatory interlocutors of the Commission.

The recognition of the existence of *élite pluralism* raises the important tension between 'political' and 'policy' legitimacy that the new EU lobbying transparency debates often failed to explore. Significantly, the regulatory/agency style of Brussels policy-making has produced the emergence of an *élite* trust-based relationship between insider interest groups and EU officials. Accepting the rationale to delegate regulatory competencies to the European Commission in terms of credible commitment, blame avoidance and market expertise (Majone 2001), the 'policy-making' legitimacy of the European Commission is seen to be high by most EU interests (Scharpf 1999; Majone 2001). Within this credibility game the Commission makes much of its attempts to build long-running relationships with interest groups, based on *consistency* for information exchanges, wide *consultation*, and *conciliatory* actions (Broscheid and Coen 2003, 2007; Mazey and Richardson 2006). Conversely, interests must develop strategies that create reputations that will help them to gain access to the closed decision-making arenas (Bouwen and McCown 2007; Beyer and Kerremans 2007; Mahoney 2007). The result of this consistent conciliatory consultation, or three Cs, is that policy-making in Brussels is reliant upon both 'social capital' and 'deliberative' types of trust (Coen 2002). Faced with these specific depoliticized institutional arrangements, it is important that we build more bureaucratic/regulatory models of lobbying that are concerned with representativeness, accountability, credibility and trust.

Contrary to the perception of aggressive lobbying of bureaucrats suggested in the popular media, EU lobbying is characterized by institutions seeking out and, in some cases, funding private and public interests. Recognizing an institutional demand, increased political action and variance in interest group activity can be explained in terms of financial incentives, regulatory competencies, and the opening up of new institutional forms. EU interest politics can therefore move beyond the functional creeping competencies arguments to explain how institutions pump prime political activity. Drawing on a data set of 700 civil society groups, Mahoney (2004) illustrated how the creation of Commission consultative committees fostered institutional opportunities and lobbying activity for societal interest groups. Broscheid and Coen (2007) develop this further by showing how interest groups and Commission preferences for policy forums and/or direct action are a function of the informational demands, number of interests and capacity to process interest group inputs, balanced against the 'input' and 'output' legitimacy requirements of the policy domain. Thus in highly regulatory domains, where technical policy inputs define policy legitimacy, they observe that the Commission creates forums and committees to reduce lobbying activity and manage the policy process.

Equally significant in studying EU interest politics is the variance in lobbying activity within the Commission; see Figure 1. In terms of total activity numbers within the Commission, we would expect that interest groups 'shoot where the duck are' (Mazey and Richardson 2006; Richardson 2006). That is to say, the greatest lobbying activity will cluster around the institutions and committees that have the greatest regulatory output and competencies. Consequently, it is not surprising that the greatest cluster of lobbying in the Commission occurs around the Enterprise and Environment domains with their regulatory and market responsibilities, that Health is the fastest growing lobbying sector, and lobbying activity in second and third pillar policy domains, such as Justice and Home Affairs and Foreign and Security policy where debates tend to be intergovernmental, is limited. Thus future comparative studies should allow for the fact that the nature of the policy good dictates style and location of interest politics within and between EU institutions.

3. MANAGING THE EU PUBLIC POLICY CYCLE

The above institutional and market changes, in addition to pulling interest groups into the Brussels orbit, also altered the political nature of many interest groups with increased cross-border activity, joint ventures, mergers and political alliances. As a result, interest groups were able to exploit and, in some cases, create new lobbying venues (Mazey and Richardson 2006; Baumgartner and Jones 1993). To fully explain EU lobbying from a *supply perspective*, EU interest politics needs to explore the variance in the political strategies for different pan-European interest groups, EU mobile domestic interests and embedded domestic interests (Beyers and Kerremans 2007; Schneider *et al.* 2007; Grossman

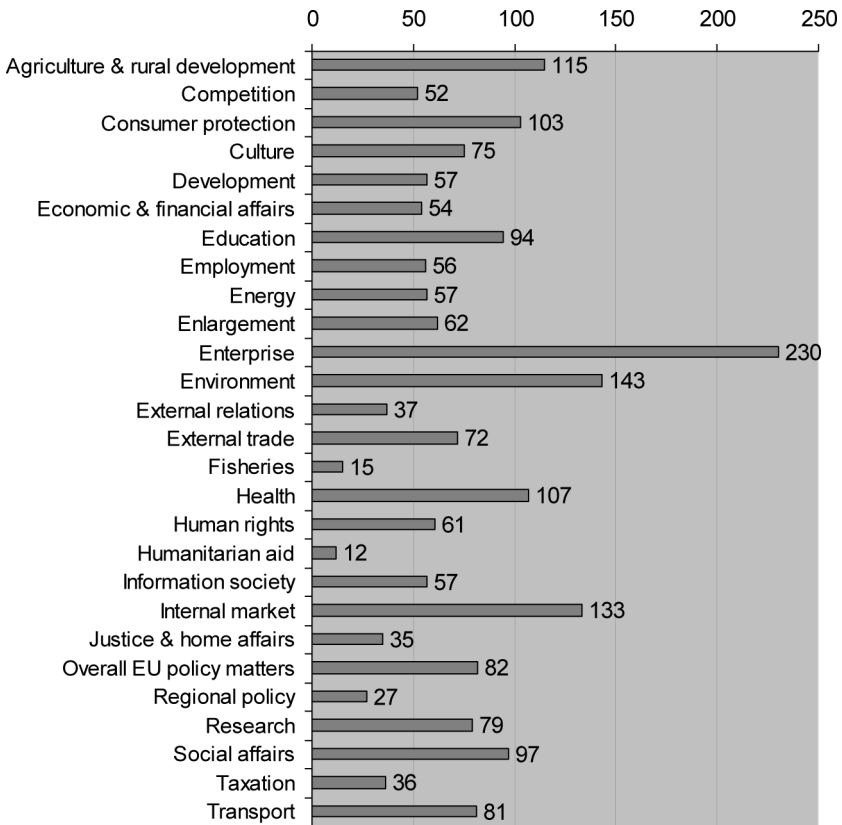


Figure 1 Number of interest groups by policy area

Source: CONECCS; http://ec.europa.eu/civil_society/coneccs/index_en.htm

2004). The result of these new studies is that we now recognize that we can no longer see Europeanization of interests politics in terms of ‘bottom up’ management of the EU, or ‘top down’ co-ordination, but as a managed multi-level process with numerous feedback loops and entry points constrained by the size of the interest group, lobbying budgets and the nature of the policy area.

Venue shopping is by its nature a dynamic perspective on lobbying, and requires that interests learn to manage their policy environment. At the EU level, it became apparent to the first wave of business lobbyists that those who wished to exert a direct lobbying influence on the European public policy system would have to marshal a greater number of skills than merely monitoring the progress of European directives and presenting occasional positions to the Commission. Successful lobbying of the Commission meant establishing an organizational capacity to co-ordinate potential ad-hoc political alliances (Pijnenburg 1998; Mahoney 2007), and to develop access to the

new opportunities presented at the EP and the European Court of Justice (ECJ), while reinforcing existing collective and national political channels. For example, to achieve improved *direct* access, the most effective means of establishing reputation was to develop a broad political profile across a number of issues and to participate in the creation of 'public goods' in European trade associations. Accordingly, the cost of 'identity building' would be discounted against better access to company-specific political goods at a later time and even in a different policy arena (Coen 1997, 1998).

Increased lobbying activity did not merely result in mimic isomorphic responses by political rivals. Distinct norms and best practice emerged in terms of EU lobbying based on trust and conciliatory behaviour at all the EU institutions (Coen 2004; Greenwood 2002a, 2003; Hamada 2007), and complex alliance strategies developed to maintain a presence across the policy process (Mahoney 2007). In this volume, Hamada (2007) illustrates how Japanese firms, excluded from the policy process through much of the early 1990s trade disputes, learnt to reinvent themselves as successful European lobbyists, by participating more fully in reorganized trade associations, building up direct action representation, and, in response to Commission prompting, created business clubs such as the Japanese Business Dialogue Round Table. Moreover, Mahoney (2007), in a sophisticated quantitative study of alliance building in the EU, demonstrates significant differentiation in political alliance structures across policy domains within the EU, and difference in cost/benefit calculus between EU and US alliances. As the study of European interest politics matures, it is important that we now identify processes and mechanisms that are not institutionally specific, and instead attempt to build studies that integrate lobbying across venues.

Even as EU institutions become political entrepreneurs and seek to encourage greater stakeholder participation, increasingly sophisticated EU interest groups have recognized that the locus of activity is primarily a function of the policy cycle: with interests focusing on agenda-setting and formulation of EU directives at the European institutions, and the implementation of directives and 'day-to-day' regulatory monitoring in the member states. What is more, as we move along the policy cycle and assess different policy areas, we can expect feedback loops between the national and European institutions. For example, in the post Amsterdam Treaty the EP has increased its role in the revisions of the Commission policy proposals and has co-decision powers with the Council of Ministers (Hix 2005). As a result, public interests have increased their voice in the policy process, and business interests have found new secondary channels to influence the formulation of EU directives. Likewise, agenda-setting and policy-making oscillate between national and European channels, depending on whether the issue is a regulatory, redistributive, or distributive question, and thus how far it impinges on the central question of sovereignty and subsidiarity.

Accepting that some interest groups will attempt to manage the whole policy process, new studies must assess the merits of direct and collective action at the

Commission level. As previously noted, although the Commission is considered open and accessible, an interest's effectiveness in influencing policy directly continues to be determined by its ability to establish a positive reputation in the European political process. That is to say, by the extent to which it can establish its reputation as a provider of reliable, issue-specific and pan-European information. While most large European firms achieve insider status from their cross-border production or size, public interests find themselves insiders on specific Commission forums because of sympathetic political leanings of directors of directorates (Richardson 2000). Consequently, the level of access expected and provided can vary markedly for private and public interests across sectors, directorates, and policy areas. With such political uncertainty and assuming the political resources to play a multi-level and institutional game, it is logical and responsible to develop a mix of political channels to influence policy.

If direct lobbying is the most effective means of influencing policy, direct political channels can improve direct access via good political management of secondary collective channels. Coen (1998, confirmed in a new 2004/05 survey) asserted that while many firms in European federations believe that collective action provides a natural channel for representing their collective good positions and provided a positive monitoring function, much of the rejuvenation of federations can be explained by the fact that many complex issues have been removed from their remit as a result of firms taking on their own direct representation. This last point only goes to show that it is important to emphasize the complementary nature of political channels and the increasing ability of firms to discount the costs of participation in one channel against improved access to the Commission via another channel. Some political channels or alliances are therefore utilized, not for the collective good they create, but for the improved access they provide for individual lobbying. In Olsonian terms, firms' participation in collective action strategies are more a function of the positive 'externalities of reputation building' than the collective goods sought by the federation (Coen 1998).

Eising (2007), more provocatively, asserts that the informational advantages of business access to the Commission are improved by collective action as opposed to direct lobbying and that this is the most favoured means of representation.⁴ However, this resurgence of European collective action may in part be explained by the actual growth of direct lobbying and the consequent feeling of 'overload' in the Commission (Coen 1998; Mazey and Richardson 2006). Given that business has limited political budgets, it is logical to assume that firms prioritize political issues between strategic core and secondary issues and allocate their behaviour accordingly. Thus, in periods of high legislative activity, firms are perhaps more willing to share out the burden of political representation to collective groups, allies, and professional lobbyists. This raises an interesting future research question to explore with longitudinal data, especially as we move into a legislatively quiet period of the Commission life cycle: does higher legislative activity on the part of the Commission encourage focused

direct action (because of a need or focused and quick information) or enhanced collective behaviour (as interests select their core interests to lobby on)? Conversely, a counter hypothesis may assert that as the legislative ambitions of the Barroso Commission diminish, functionaries can be more demanding as to whom they talk to, and the collective criteria they demand for access to the policy process (see Broscheid and Coen 2007).

As we adapt our new empirical studies to take into account the temporal and policy cycle aspects, it is clear that the opportunities for venue shopping and range of advocacy coalitions increase (Sabatier 1998). In such complex policy surroundings, EU interests continually re-align on policy, and attempt to create new political identities to access different political venues (Coen 1998; Mahoney 2007; Bouwen 2002, 2004a, 2004b; Bouwen and McCown 2007). As Bouwen (2002, 2004a) observed, the *access goods* required change by EU institution, with interest groups having to prove technical legitimacy at the Commission and transnational policy credentials to the EP. Furthermore, while economic and technical arguments predominate in the Commission, it is now clear that interests develop different political arguments to exert influence at the EP. For example, the R&D pharmaceutical companies present strong global competitiveness arguments and rationales for long patents to the Commission, but pitch the same issues in terms of the impact of regional employment and education at the EP (Earnshaw and Judge 2006; Coen and Grant 2001).

Similarly, the assertion of the ECJ's primacy over national courts and the increasing codification of European competition law provide new veto points for interest groups to rally round (Wilks 2005; Stone Sweet 2000). Rather than constructively lobbying to access the policy process in the formative stages, interest groups are now presented with new litigation strategies to block and redefine laws at the end of the policy process. As Bouwen and McCown (2007) illustrate, litigation strategies not only remove national barriers to harmonization, they also set EU legal precedence and new opportunities to lobby. The building on case law will encourage other interest groups to take legal recourse, and creates a shadow of legal intervention in EU policy-making and the risk of activist European judgments (Stone Sweet 2000; Fligstein and Stone Sweet 2002). Nonetheless, regardless of the dynamics between ECJ and interest group activity, Alter and Vargas (2000) argue that litigation is only effective in EU politics when supported by direct lobbying strategies. Moreover, litigation strategies have to date only been used sparingly by EU interests, owing to the high political and economic costs of action, risk aversion of EU interests, and a strong cultural bias towards consultation rather than conflict in lobbying.

Finally, at the start and end of the EU policy process intergovernmentalists continue to argue that the Council of Ministers is the main focus of EU political activity. Yet, regardless of the unquestionable locus of power, we see limited direct lobbying activity at the EU level via the Council Secretariat, the Committee of Permanent Representatives (COREPER), or via the Permanent

Representations (Hayes-Renshaw and Wallace 2006). Paradoxically, it is domestic interests that appear to have the best access to the Secretariat as they are seen to provide the *national mood* perspectives (Bouwen 2004b). Recognizing this EU lobbying anomaly, it is therefore important that we understand how domestic interests feed into the European debate via the national routes (Schneider *et al.* 2007; Grossman 2004). Schneider *et al.* 2007, using Nash bargaining models, illustrate significant country variance in interest intermediation in domestic pre-negotiations of the EU, asserting that the formation of EU legislation is largely *étatiste*, and that when important private interests are at stake, lobbying patterns are more likely to be clientelistic. From a more integrated perspective to EU public policy, Beyers and Kerremans (2007) support this assertion by showing empirically how not all domestic interests make use of the EU institutional opportunities, and the importance of national ties that bind domestic interest groups to their constituencies.

CONCLUSIONS

Much good work has been done on EU interest politics and there has been a gradual movement towards more testable theory building. In so doing, the students of EU lobbying are grappling with some of the same methodological and theoretical questions as their counterparts in the US (Baumgartner 2007). However, before wholesale exportation and replication of US models becomes the norm, we must investigate how applicable such concepts are to the EU public policy process and distinct EU institutions (Woll 2006a; Coen 1999). This volume, while calling for large N studies of European interest politics similar to those undertaken in the US, also highlights the emergence of complex multi-level interest alliances and a distinct EU-led forum politics. The volume also recognizes that good qualitative studies can further our understanding of interest politics if they are organized in a systematic and cumulative way, so as to encourage comparison across institutional and policy case studies (see Bouwen 2002, 2004a, 2004b; Bouwen and McCown 2007).

While private interest representation has snowballed through the 1990s, public interests have responded in the early years of the 21st century to these new opportunities and learned to create complex advocacy alliances and political presence via 'gate keeping' and identity-creating functions (Mahoney 2007; Coen 1998; Eising 2004; Beyers 2004). In such a complex policy process it is vital that future studies no longer focus on lobbying in single institutional venues, but instead attempt to tackle the difficult comparative study of interest strategies across different institutional levels (Beyers and Kerremans 2007; Eising 2007). Looking at the demand and supply in tandem, the rise of forum politics and the emergence of a distinct European public policy style helps to explain a 'bandwagon effect' pulling yet more interest groups into Brussels (Broscheid and Coen 2007; Hamada 2007). How the Commission and other EU institutions compete for constituencies and can pump prime the political game in Brussels to Europeanize interest groups requires new

theoretical approaches that are distinct to the EU. However, while recognizing that such Europeanization has occurred, we must not lose sight of the fact that not all interest makes use of the new EU opportunities and distinct national interest models remain (Beyers and Kerremans 2007; Schneider *et al.* 2007).

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NOTES

- 1 Franchino (2005) counted 201 case studies in *JEPP*, *EUP* and *WEP* for a 10-year period from 1994 to 2004.
- 2 This number may be inflated as every body who wants to enter the EP regularly (to drink coffee with friends) needs to be declared as a potential lobbyist – hence you will find the name of Simon Hix on the EP list of lobbyists. Woll (2006: 6) more optimistically guesses the figure to be nearer 3,000 real lobbyists.
- 3 Coen (1997: 98–9) defined *élite pluralism* as an interest arrangement where ‘access is generally restricted to a few policy players, for whom membership is competitive and strategically advisable.’ In such a political environment, competition for places at the table can define/redefine the lobbying strategies of interests groups (Broscheid and Coen 2003).
- 4 While the latter observation runs contrary to Bouwen’s (2002) and Coen’s (1997) studies, it does not undermine the general observation that business interests have favoured access, and the result may be a function of the sample’s large bias towards EU and national trade associations. Moreover, the data came from the supply side of the equation and it would be interesting to compare in future studies the responses of the Commission and EP officials. For example, Koeppl (2000), in a survey of 373 heads of Commission units, observed that 65.7 per cent of functionaries believed that lobbyists were necessary for policy-making.

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