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Lobbying activity and fora creation in the EU: empirically exploring the nature of the policy good

Andreas Broscheid and David Coen

ABSTRACT This paper presents a quantitative look at lobbying activity and the emergence of institutional fora in the European Union (EU). Specifically, the paper explores why the number of interest representatives differs across policy domains, and why we find institutionalized fora for interest representation for some policy issues but not others. Building on a strategic lobbying model, the paper shows empirically that Commission activity influences interest group activity, and that increased activity leads to the creation of fora. This conforms to our assertion that the creation of lobbying insiders is a reaction to lobbying overload. We also find that distributive policy domains have fewer lobbying groups than regulatory policy domains. This is unsurprising, considering that regulation is the area of greatest EU policy output. Conversely, lower levels of lobbying activity in distributive policy domains indicate that these are still highly intergovernmental and encourage multi-level venue shopping.

KEY WORDS European Commission; European Union; interest groups; lobbying; regulatory and redistributive policy.

INTRODUCTION

The study of interest representation has been characterized by an interesting micro–macro distinction. Many approaches that emphasize a systemic or sub-systemic perspective are dominated by informal theories and mainly descriptive empirical approaches. In contrast, micro-level studies of lobbying processes often emphasize causal theories, which frequently are exposed in formal mathematical language. We do not find many macro-studies that build on micro-models of lobbying, and we do not find many micro-models of lobbying that address systemic questions.

This paper intends to contribute to the debate connecting micro- and macro-approaches to the study of lobbying. Using predictions from a formal model that we have detailed elsewhere (Broscheid and Coen 2003), we present a quantitative empirical look at the implications of our theory. Specifically, we try to find answers to two questions:

- 1 Why does the number of interest representatives differ across policy domains?
- 2 Why do we find institutionalized fora for interest representation in some policy domains but not in others?

We believe that a focus on organized interests targeting the European Commission is a good starting point for this investigation. First, the current dominant formal theories of interest representation emphasize the role of informational lobbying, which is usually acknowledged to be the predominant type of lobbying of the Commission. As a result, the Commission can serve as a good empirical test case. Second, the Commission's relatively independent and specialized directorates general (DGs) focus on fairly cohesive sets of policies. The patterns of interaction surrounding the DGs provide a useful operational definition of policy domains. Thus, it is possible to compare different policy domains with different lobbying costs, expertise requirements, and the like. Third, the study of European Commission lobbying is important as it deals with the potential influence of the European civil society on the institution that shapes and implements legislation.

The paper will start with a brief overview of those aspects of the macro- and micro-literature on interest representation that motivated the present study. Then we provide a brief informal summary of our theory connecting the two perspectives, followed by a discussion of our data and our empirical results. We conclude with some perspectives for the study of European lobbying.

MICRO- AND MACRO-STUDIES OF LOBBYING

The main focus of system-level studies of lobbying has been the equality and fairness of representation of all social interests. Pluralist studies of interest representation tend to conclude that representation is generally fair, as under-represented groups of actors will become involved if their interests are not sufficiently taken into account by decision-makers (Truman 1951). The government appears mainly as a neutral broker between different interests. The pluralist approach has come under attack from Olson-style micro-level theories of collective action, which argued that certain interests are less likely to organize and hence to be politically influential (Olson 1965). Among macro-level studies, this argument provides a micro-foundation for theories of elite pluralism (Schattschneider 1960), or studies of the varying power of industry interests (McFarland 1991).

Neo-corporatism can be viewed as one of the main macro-level responses to the pluralist argument of equal representation. Combining a descriptive account of interest representation with an applied argument about the effectiveness of different lobbying systems, neo-corporatists not only describe lobbying systems characterized by a monopoly of representation through peak associations and national labour unions (Streeck and Schmitter 1991). They also, often implicitly, argue that such a monopoly of representation may have beneficial

consequences. The great benefit of macro-theories such as neo-corporatism is to provide a basis for comparative studies of different political systems (Wilson 1990). Their weakness has often been on the explanatory side, as Olson's criticism of pluralist theories has highlighted.

Pluralism, elite pluralism, corporatism, and their variants represent high-level theories of entire political systems. A number of meso-level approaches have focused on the inclusiveness of interest representation at the sub-system level, particularly the distinction between insider and outsider lobbyists (Broscheid and Coen 2003; Grant 2004). Depending on their level of exclusivity, such sub-systems have been characterized as iron triangles (Freeman 1965; McConnell 1966), subgovernments (Jordan and Richardson 1979; McCool 1990), issue networks (Hecl 1978), or advocacy coalitions (Jenkins-Smith and Sabatier 1994). Insiders can be simply actors that are frequently consulted (as in the case of issue networks or advocacy coalitions), or they are actors actively involved in bargaining and policy negotiation, or in the implementation of policy solutions (Grant 2005; Maloney *et al.* 1994). The main focus in this literature is on the categorization and recognition of different types of policy networks, and on their role in the policy process, not the explanation of their existence (Marsh and Rhodes 1992).

The insider/outsider lobbyist distinction is of particular importance for the study of European Union (EU) lobbying. While the European Commission attempts to be open and transparent in its interaction with societal interests, a core of insiders has nevertheless been established. We see an elite pluralist system in the form of fora to which 'access is generally restricted to a few policy players, for whom membership is competitive and strategically advisable' (Coen 1997: 98–9). The selection of lobbying insiders is managed and organized with a wide variety of committees, working groups, conferences, and other policy fora (Pedler and Schaefer 1996). In this study, we investigate factors that may cause the different structures of lobbying sub-systems surrounding the European Commission. This includes looking at the number of interest groups in areas dealing with different types of policy questions as well as the question of insider lobbying through European Commission fora.

In order to propose a causal explanation of lobbying sub-systems, it is important to look at existing causal explanations of lobbying. The predominant formal-theoretical approaches view lobbying as the strategic communication of specialized information (Grossman and Helpman 2001). Building on game theoretic models developed throughout the 1980s (Crawford and Sobel 1982; Kreps and Wilson 1982), these approaches argue that interest representatives have policy-relevant information that policy-makers need in order to make effective policy decisions. If the political goals of interest representatives and policy-makers diverge, then information may be transmitted in a biased manner. Although the policy-maker takes informational biases into account when interpreting lobbying signals, the informational advantage of interest representatives is a source of political influence.

There are several variants of informational lobbying models. They can be based on whether the information is about the interest representatives' constituents (Ainsworth 1993; Potters and van Winden 1990), or about the impact of the policy environment on policy outcomes (Grossman and Helpman 2001). Other variations may be based on the number of lobbyists, and on their position towards each other (Austen-Smith and Wright 1992), or on the nature of the signal (for example, discrete versus continuous signals; see Grossman and Helpman 2001). One common element of almost all informational models is the fact that they investigate the interaction of one or two lobbyists with a unified government. This makes it difficult to draw conclusions about lobbying systems, which deal with populations of lobbyists. The model that we use in this paper tries to tackle this problem.

The informational approach is particularly useful for the study of lobbying in the EU (Crombez 2002). In Brussels the key to successful lobbying is not political patronage, or campaign contributions, but the provision of information. The Commission, in this context, with its executive instruments and directives, acts as the focal point in the early stages of the lobbying process. As a technical bureaucracy it does not seek funds for re-election but rather looks for a policy community that may provide a source of grass-roots and European-level information (Bouwen 2002; Coen 1997). The demand for the two types of information may vary across policies. For example, if a policy deals with technical standards or the regulation of sophisticated products such as pharmaceuticals, substantive expertise is very important. On the other hand, for policy that has (or might obtain) a high level of political salience in the member states, the Commission requires information on the preferences of relevant actors in the several states.

For the purpose of this study, we do not focus on the distinction between different kinds of information. We argue that technological as well as preference information addresses the question of whether a policy proposal *works*, that is, whether it has a desirable outcome and whether it will be acceptable to the actors involved in the political decision process. However, technical information may be more costly to obtain, whereas information on preferences can be obtained at comparatively low cost by some organizations. In both cases, the Commission has to rely on private actors to provide it with much of the information it needs; therefore, there is opportunity for interest representatives to influence policy.

WHY ARE THERE MORE LOBBYISTS IN SOME POLICY DOMAINS THAN IN OTHERS?¹

The number of groups representing different interests has been one of the most important questions in the interest group literature. Existing explanations have focused on the number of potential group members and the role of selective incentives, patrons, political entrepreneurs, and other factors to mobilize those potential group members. Interestingly, a comparison of the number of

groups in different policy domains – the density of interest group populations – is far less common (Heinz *et al.* 1990; Mahoney 2004), and a theoretical account of group density is missing. In order to provide such an account, we believe that it is important to analyse the interaction between groups and decision-makers in different policy domains.

It has been observed that the interaction between interest representatives and the European Commission (and other EU institutions) is based on information (Bouwen 2002; Coen 1998). The Commission's staffing levels are very low, compared to the extent of its tasks (van Schendelen 1996), and interest representatives often have to provide expert information. At the beginning of our theoretical investigation, we therefore ask under which circumstances lobbyists are willing to provide useful information.

Instead of providing useful information to decision-makers, lobbyists can always present a biased view on issues, reflecting their commonly known positions. In the world of formal models of communication (Gilligan and Krehbiel 1987; Gilligan and Krehbiel 1989; Lupia and McCubbins 1997), this is called 'babbling' – the lobbyists (or the 'senders' of information) provide a standard recommendation, independent of whether the information recipient (here the Commission) may agree with this information or not. We argue that lobbyists always 'babble' unless they receive incentives – rewards for informative signals or punishments for non-informative signals – to provide better information.

Why do lobbyists always babble, when lacking rewards or punishment? Consider a situation in which a lobbyist provides information that is damaging to her² interests. The recipient of such information will surely take it very seriously, as it is obviously not self-serving information. As a result, it is likely that the recipient (here the Commission) acts on this information in a way that is detrimental to the lobbyist's interests. Therefore, the lobbyist has no reason to provide this kind of detrimental information – unless she receives a reward, essentially a compensation, for its provision or is punished for not providing it.

Does the European Commission provide rewards for useful information? We believe that it does so by providing privileged access for lobbyists and interest groups that consistently provide such information. Actors with privileged access are routinely consulted, invited to workshops, consultative fora, etc., that form part of the policy-making process and allow lobbyists to influence policy more effectively. Furthermore, access translates into knowledge about political and administrative developments at the EU level, which in turn can translate into advance knowledge about EU contracts or grants, or influence on the early stages of the policy process (Coen 1998, 1999). These are all things that are highly valued by lobbyists and interest representatives. By granting or denying access, the Commission can reward useful information or punish babbling.

How does the Commission know whether a lobbyist babbles or provides useful information? It learns it after the fact, once it has proposed a policy, implemented a regulation, taken action to enforce a directive, issued a ruling, etc. If its action turns out to be bad – a proposal fails in Council and Parliament, member states

resist a directive, a decision results in unexpected, negative outcomes, and so on – the Commission has to conclude that the information on which it acted was erroneous. If the Commission concludes that it was ‘suckered’ by self-serving information provided by lobbyists, these lobbyists may lose their access and have to invest additional resources to regain the Commission’s confidence.

These considerations help us to establish the incentives that can induce an actor to become an EU lobbyist – to enter the political fray and try to influence the European Commission (and other institutions). First, a lobbyist will try to influence Commission decisions because she has policy interests. In political-economic terminology, a lobbyist expects policy utility gains if the policy she prefers is supported by the Commission. These policy gains can be ideological (if the Commission proposal conforms to the actor’s political outlook) or they can be material (for example, in terms of budgetary transfers to a region represented by the actor, regulations that favour the actor’s industry, and so on). In general, it seems to make sense that actors are more likely to become lobbyists if large policy benefits are at stake. However, our formal model shows that the situation is more complicated (Broscheid and Coen 2003: 176). If possible policy gains are large, lobbyists have a stronger incentive to babble, as the size of the policy gains outweighs the possibility of losing access. This, in turn, means that under some circumstances high policy stakes may lead to uninformative lobbying.

Second, the actor/lobbyist will receive non-policy benefits, such as information on EU policy developments, grants and contracts (Coen 1998, 1999). As we noted above, these benefits can be granted (and withheld) by the Commission as a reward for accurate information (or a punishment for babbling). One interesting property of those non-policy benefits is that they are divisible. Access is most valuable if few other actors have it. If many actors in a policy domain gain access to the Commission, the value of access decreases, as each actor receives only a smaller share of the time each Commission official can spend with interest representatives. In addition, the comparative advantage of inside information decreases, as many other actors in the domain obtain this information and can act on it. This has important consequences for the amount of babbling versus informative lobbying that takes place: as non-policy (access) incentives become *diluted*, the incentives for informative lobbying become smaller. More lobbyists will be tempted to present non-informative political propaganda instead of useful information.

Third, the actor considering whether or not to become a lobbyist has to consider the costs of lobbying. First, these costs consist of organizational costs – mobilizing potential members, monitoring Commission decision-making processes, establishing a Brussels office, and so on. Second, the actor has to incur informational costs. If she wants to be taken seriously as a lobbyist, she has to show that the information she presents to the Commission is reliable and based on expertise. In some cases, expert information is comparatively easy to obtain for a lobbyist; the example of preference information has been noted above. In other cases, however, expert information is of a technical

nature and more difficult to obtain. Lobbyists may have to pay for scientific and other expert studies to credibly provide the information demanded by the Commission.

Taking these three factors together, an actor will become a lobbyist in a policy domain if the expected policy and non-policy benefits outweigh the organizational and expertise costs. How does this argument help us to explain why some policy domains have more lobbyists than other domains? Remember that non-policy benefits decrease as the number of lobbyists in a domain increases. As a result, there is an optimal number of lobbyists in a policy domain; if this number is reached, there are no non-policy incentives for additional lobbyists to incur the informational and organizational costs and join the lobbying population as informed interest representatives. As we argued above, without non-policy incentives the lobbyist would only babble if she joined, and as a result she would not influence Commission policy – which means that there are no policy benefits to be obtained from lobbying.

THE NUMBER OF LOBBYISTS IN A POLICY DOMAIN

How do we determine whether the optimal number of lobbyists is larger or smaller in a given policy domain? Here, we consider the factors that influence the size of non-policy benefits and organizational/expertise costs to deduce the two hypotheses below.

Hypothesis 1. If the lobbyists in a policy domain receive larger non-policy benefits from lobbying than in another domain, we can expect more lobbyists to be active in the first domain.

Hypothesis 2. In a domain in which lobbying is comparatively costly, we will find fewer lobbyists than in a domain in which lobbying is less costly.

Once we settle on policy domains as units of analysis, however, the difficulties begin, as we have to determine the exact boundaries of policy domains at the EU level. Intuitively, we have a clear sense of different domains – agriculture, health policy, chemicals, labour policy, etc. – based on the subject matter of laws and regulations. But a closer consideration leads to difficult definitional questions, such as: Does fisheries policy belong to agricultural policy, or is it a separate policy domain? Does pharmaceuticals policy belong to chemicals, to health policy, or is it a domain on its own? The answer is structural: policy domains can be identified as patterns of actor networks. Unfortunately, this creates an empirical problem: since we want to explain the structure of policy domains, we cannot use that structure to define our units of analysis, and thereby our dependent variable. We have to find an independent indicator to distinguish between policy domains.

Our solution to the problem is to rely on existing institutional boundaries provided by the European Commission. Each DG involved in policy-making and policy implementation roughly conforms to a policy domain, or a set of closely related policy domains. The institutional structure of DGs is based on, and creates, patterns of regular interaction between different groups of governmental and non-governmental actors, which approximate the shape of existing policy domains. Furthermore, the jurisdictional boundaries of DGs are obviously not the results of our empirical analysis, thereby guaranteeing that we do not choose those domain boundaries that create empirical support for our hypotheses.

Comparing the number of lobbyists associated with each DG creates new problems, as DGs differ in range (number of policy issues they deal with) and intensity (amount of legislative, implementation, and enforcement activity they engage in). The latter factor is not a serious problem for us, as the intensity of Commission activity is implicitly part of our theoretical discussion – it leads to varying levels of policy and non-policy benefits for groups. Policy domains with equal levels of Commission activity would be useless for our analysis. In fact, our main independent variables encode information on the levels of DG activities.

Our dependent variable is the number of interest groups active in a policy domain, which we obtain from the European Commission's CONECCS database. This database contains listings of labour and employer organizations, business associations, non-governmental organizations (NGOs), and community-based organizations. Conneccs entries are based on voluntary reports by interest groups, which also report one or more pre-defined policy areas in which they are active. As the Conneccs policy areas closely conform to the jurisdictions of different DGs, it is easy to obtain the dependent variable from those data.³

In order to test our first two hypotheses, we have to identify data that measure non-policy benefits and lobbying/organizational costs. Unfortunately, it is very difficult, if not impossible, to measure these types of costs and benefits directly. However, we can observe indirect indicators that provide us with a sense of whether such costs and benefits are higher or lower in different policy domains. First, we coded the number of policy-related units of each DG as an independent variable.⁴ While the number of units records the complexity and number of policy domains that a DG deals with, it also provides a measure of the policy benefits provided by the DG. Second, we include the number of DG staff as independent variable.⁵ This measure serves as a proxy of both policy and non-policy benefits of lobbying. The more staff a DG has, the more policy it can propose, implement, and enforce. However, it should be noted that larger staffing levels in some units indicate that informational shortcomings have been overcome, as the regulatory activity of these DGs may be high. Furthermore, since non-policy benefits are to a large extent linked to contact with Commission officials, a larger staff will result in higher non-policy benefits. Since policy benefits are already controlled for by the number of units, the coefficient of the staff variable will reflect mainly the impact of non-policy benefits on the number of interests.

The organizational costs of groups are difficult to measure at the macro-level. As an approximation, we suggest that broad differences between policy areas reflect organizational and lobbying costs. In regulatory policy domains, the Commission requires a comparatively high level of expertise input, and, as a result, interest representatives are expected to provide such information. This increases the costs associated with lobbying. In distributive policy domains,⁶ lobbying involves to a larger extent the representation of a wider selection of societal interests; but conversely, the expertise required in such policy areas is more of an administrative/positional nature and not likely to be provided by lobbyists. As a result, we assume that, in distributive policy domains, organizational costs are lower than in regulatory policy domains and the number of groups correspondingly larger.

Even though the analytical distinction between distributive and regulatory policy domains is clear-cut, it is empirically difficult to identify them. In this case, we had to rely on our judgement and expert input of colleagues in order to distinguish the two types of domains.⁷ In the end, we categorized Regional Policy, Agriculture, Fisheries, Humanitarian Aid, Employment and Social Affairs, Development, Education and Culture, and Research, as distributive policy domains. In particular, Employment and Social Affairs was a difficult case, as it deals with important regulatory issues. However, the fact that the corresponding DG administers the European Social Fund led us to the decision to code this policy domain as distributive. We code distributive policy domains with a dummy variable that is '1' for distributive policy domains.

Our hypothesis predicts that the coefficient of this variable is positive. However, it is possible that the distinction between distributive and regulatory policy domains corresponds not only to expertise requirements but also to other factors. In particular, as the EU is predominantly a regulatory policy-maker, we can expect policy type to be associated with the intensity of Commission policy-making activity. By including the number of policy units in our regression model, we try to control for this factor. However, if policy units do not perfectly capture the amount of policy-making, the estimated impact of policy type on the number of groups may be negative rather than positive.

We include three control variables in our analysis: first, the age of the policy domain is important. As time passes, more groups can be formed; conversely, in 'young' policy domains, some groups may not yet have been formed. Lowery and Gray (1995), for example, make this argument in regard to the American states. In the European context, however, it is possible that new policy domains have a larger number of groups: the transfer of authority to the EU may be the result of increased interest representation; also, the Commission may be particularly active in new policy domains and thereby trigger group activity (Saurugger 2003). Policy domain age is measured as the difference between 2005 (the year on which our Conneccs data are based) and the year in which the corresponding Commission portfolio was first established.⁸

The second control variable marks policy domains in which national or sub-national governments play a dominant role. We suppose that in such policy

domains we should find fewer societal interest groups, as the main interests are represented by governments (and their organizations). We use a dummy variable that is '1' for Competition, Economic and Financial Affairs, Enlargement, External Relations, Justice and Home Affairs, Regional Policy, Taxation and Customs Union, and Trade.

The third control variable is the number of consultative fora for interest representation. In the second part of this paper, we will focus on this variable as a dependent variable and explain its precise coding. Here, we include it to investigate whether there is the possibility of reciprocal causation between the number of groups and the number of fora. Substantively, consultative fora could foster the formation and participation of groups, as they create an insider–outsider divide that provides incentives for outsiders to become insiders.

We use an ordinary least squares (OLS) regression model to estimate the relationship between the variables. We are aware that such a model may not be, strictly speaking, appropriate, as we are dealing with count data. However, the dependent variable ranges from 10 groups (Fisheries) to 221 groups (Enterprise), and it can be treated as approximately continuous. Since the number of observations is small, we cannot rely on the Central Limit Theorem to assume normally distributed parameter estimates. Hence, we use bootstrapped error estimates and confidence intervals based on the bootstrapped coefficient quantiles (Stine 1989).

The results are summarized in Table 1. Our main variables of interest provide mixed results: the number of personnel has a positive relationship to the number of groups, but the estimated coefficient is not significant (the confidence interval includes the value 0); the number of policy units has a negative coefficient, contrary to expectations, but that coefficient is also insignificant. The coefficient for distributive policy domains is almost significant (the 95-percentile includes zero,

Table 1 Bootstrapped OLS regression of number of groups

| | <i>b</i> | <i>SE</i> | <i>Confidence intervals</i> | |
|--------------|----------|-----------|-----------------------------|--------------|
| | | | <i>0.025</i> | <i>0.975</i> |
| Constant | 79.99 | 44.69 | −12.97 | 163.94 |
| Fora | 0.49 | 0.41 | −14.31 | 1.47 |
| Personnel | 0.08 | 0.10 | −0.16 | 0.23 |
| Units | −2.45 | 2.64 | −5.30 | 4.83 |
| Distributive | −55.90 | 28.40 | −113.02 | 0.10 |
| Age | 0.56 | 1.02 | −1.25 | 2.82 |
| National | −53.13 | 31.06 | −123.58 | −1.40 |

N: 21
Adj. R2: 0.40

Notes: Standard errors and confidence intervals are bootstrapped; due to the small N, the parameter distribution is not approximately normal and T-tests are not appropriate.

but the 90-percentile – not shown here – is below zero). However, distributive policy domains have *fewer* interest groups than regulatory policy domains – not more, as predicted by our theoretical model. Newer policy domains have more, not fewer, actors, contrary to our presumption, even though this difference is not significant. The number of fora for interest representation has a positive impact on the number of groups, but the 95- and 90-percentiles do both include zero and we have to reject the coefficient as insignificant. In addition, the substantive impact is small – for every additional forum in a policy domain, the estimated increase in the number of groups is less than 0.5. The only variable that has a clear, significant impact on the number of groups is the distinction between policy domains whose interlocutors are mainly governmental actors. Such domains have, *ceteris paribus*, on average 53 fewer interest groups than policy areas that are of interest for non-governmental actors. Indirectly, this result indicates that policy benefits seem to play an important role in the mobilization of interest representation. In policy domains in which the interests of private actors are not directly involved, the number of groups clearly drops.

One possible reason for the insignificance of the personnel and policy-units variables may be multicollinearity among those factors. Indeed, the two variables are highly correlated (0.91), which possibly leads to inflated standard errors and coefficients that are sensitive to small changes of the regression specification. We tested for this, by estimating two versions of the regression model that removed either the personnel or the policy-unit variables; the results did not change substantively.⁹

So far, the results are mixed. The significant impact of the distinction between policy areas of particular interest for governments qua governments, and those of direct interest for civil society actors, indicates that policy benefits matter. The large and almost significant *negative* coefficient for distributive policy areas indicates that interest representatives are more strongly mobilized in regulatory policy areas. Again, this indicates that policy benefits are the driving factor – distributive policy, after all, is not the main area of EU activity. Interestingly, once we control for ‘national’ policy areas and distributive policy areas, the organization of interest representation through fora does not seem to increase the mobilization of interest representatives.

WHY ARE THERE MORE INTEREST REPRESENTATION FORA IN SOME POLICY DOMAINS THAN IN OTHERS?

The second general question that this paper addresses deals with the conditions under which the Commission establishes fora for interest representation, thereby giving some interest representatives privileged access. We argue that the decision to establish fora is the result of a trade-off between the informational and legitimacy needs of the Commission. As in our discussion of the number of groups in a policy domain, we provide a non-formal summary of arguments whose formal derivation has been presented elsewhere (Broscheid and Coen 2003). We have argued above that the provision and possible withdrawal of non-policy incentives by the Commission constitutes an important incentive for lobbyists to provide accurate

information. Furthermore, we have argued that, in the case of the Commission, these incentives are closely linked to the provision of access to decision-making processes: those actors that provide accurate information will be rewarded by continuous access, and those that are found to have provided inaccurate information will be excluded. The problem with such access-related incentives is that, as more actors receive those incentives, the amount each individual actor receives decreases. As a result, 'crowded' policy domains will provide smaller incentives for lobbyists to provide accurate information – they babble.

If the number of interest representatives is too large, we can talk about *access overload* (Coen 1997; Richardson 2000): the number of interest representatives dilutes non-policy incentives to such a degree that there is little informative lobbying and lots of babbling. We argue that in such a situation the Commission has incentives to select some interest representatives and to provide them with privileged access, thereby increasing the non-policy incentives those representatives receive.¹⁰ Since selected interest representatives can lose their privileged access if it turns out that they provide inaccurate information, the Commission thus creates incentives against babbling. One possible strategy of selecting insiders is the creation of fora for interest representation in which Commission officials regularly consult with a select group of societal actors. This argument leads us to our third hypothesis:

Hypothesis 3. The probability of observing Commission consultation fora for societal interests increases with the number of groups in a policy domain.

Why do we talk about the *probability* of observing fora, instead of stating that a large number of groups (deterministically) leads to the creation of fora? The answer is that there are several other important factors that we believe interfere with the informational rationale of granting privileged access to some lobbyists. The key to those interfering factors are legitimacy considerations. As a non-majoritarian institution with comparatively little democratic oversight, the European Commission has to exercise a variety of politically charged duties, such as the proposal of European legislation or the formulation of administrative guidelines, opinions, and the like. Without a democratic basis, the legitimacy of Commission decisions is fragile and has to rely on accountability, shared norms, policy output that is widely acceptable and regular consultation with a wide range of societal actors.

In this context, Scharpf (Scharpf 1999: 269) distinguishes between input-oriented and output-oriented legitimacy. As to input-oriented legitimacy, Scharpf states that 'modern input-oriented theorists rarely derive legitimacy primarily from the belief that "people can do no wrong." Instead, they insist that policy inputs should arise from public debates that have the qualities of truth-oriented deliberations and discourses.' If we view input-legitimacy from this perspective, the Commission has to solve a dilemma. As it does not derive its authority directly from the people, it has to rely on public, truth-oriented

debates. On the one hand, this means that it has to foster ‘truth-oriented deliberations’, which may require it to establish institutional structures that limit *babbling* – Commission fora. On the other hand, it has to establish public debate in policy areas that are often highly technical and of low public salience. As the Commission restricts access to a few privileged actors, it limits the breadth of public debate, while at the same time increasing the truth orientation of the debate. According to these considerations, Commission fora should be more likely if policies require reliable information rather than broad-based consultation. Therefore, we suggest that it is technical, regulatory policy domains that will see the establishment of fora as the number of interest groups becomes too large.

With respect to output-oriented legitimacy, Scharpf argues that ‘collectively binding decisions should serve the common interests of the constituency’ (1999: 268). Since the Commission has no direct majoritarian basis, it has to determine the common interest through consultation. For policies that affect a wide range of actors and that are fairly non-technical, this requires broad consultation of societal actors and a consideration of their political demands. In such policy domains, the selective restriction of access therefore leads to a lower degree of legitimacy for Commission decision-making. For policies that are highly technical and of low salience, the quality of information that the Commission uses for policy-making is more important. Hence, in such policy domains it is more likely that the Commission is willing to restrict access in order to improve the informational basis for its policies and hence improve their output legitimacy.

These considerations lead us to our fourth hypothesis:

Hypothesis 4. The Commission is more likely to establish fora in policy domains in which technical information is required to make good policy. In policy domains that are less technical and that affect a large number of societal actors, Commission fora are less likely.

COMMISSION ACTIVISM, EMERGENCE OF FORA, AND INTEREST MANAGEMENT

The dependent variable is the number of fora in different policy domains. As we explain above, the policy domains are determined by the portfolios of the DGs. The empirical test of our explanation of fora creation is based on the same unit of analysis and the same data used in our analysis of the number of groups in different policy domains. Our data on fora are based on the new (in 2005) *Register of Expert Groups* (http://europa.eu.int/comm/secretariat_general/regexp/). This database is preferable to the listing of consultative bodies in CONECCS, as it is broader than the CONECCS database and excludes social dialogue and comitology committees and so-called joint entities to supervise the implementation of international agreements http://europa.eu.int/comm/secretariat_general/regexp/faq/faq.cfm?aide=1.¹¹

The first independent variable of interest, the number of groups, is our previous dependent variable and does not have to be further discussed. More difficult is the creation of a measure for the level of technical information required in a policy domain, and the number of societal actors affected by it. We try to solve this difficulty by relying on the general distinction between regulatory and distributive policy domains. Distributive policy domains may be bureaucratically complicated, but this type of administrative expertise can be presumed to reside in the Commission bureaucracy that grew with these policy areas; the Commission will not demand administrative expertise from societal interests. Also, distributive policy domains such as agricultural or regional policy affect a wide range of actors and are of comparatively high public salience. Regulatory policy, on the other hand, is usually fairly technical, of low salience, and directly affects only a small number of social interests (even though there may be a wide indirect effect – for example, through increased prices as a result of regulation – this is often not connected to the policy and usually does not mobilize affected actors). We measure the distinction between regulatory and distributive policy with the same dummy variable used in our analysis of the number of groups. As control variables, we include measures of the number of personnel (as more personnel may facilitate the organization of fora) and the policy domain age variable used in the analysis of the number of groups (as newer policy domains may not have established fora even though they may create them in the future).

Even though the dependent variable is a count variable – ranging from no expert groups (Enlargement) to 132 groups (Research) – it is approximately continuous, and OLS parameter estimates are viable. Again, since the number of cases is small, we use bootstrapped standard error estimates and percentiles.

Table 2 summarizes the results. The number of groups in a policy domain is strongly related to the number of fora – domains with more groups tend to have more fora. Specifically, we estimate that for every three groups with which a DG has to interact, we find an additional forum. This conforms to our expectation and supports our argument that the creation of fora for interest representation is a reaction to lobbying overload. Contrary to our expectations, we find that distributive policy domains have *more* fora than regulatory policy domains – however, this impact is not significant. The other parameter estimates in Table 2 are equally insignificant, even though the size of the personnel in a DG is almost significantly and positively related to the number of fora.

DISCUSSION

To what extent do our results support or contradict our hypotheses? Overall, there is evidence for two of our main contentions: first, Commission activity influences group activity and, second, group activity leads to the creation of fora for interest representation. To start with the second argument, our results demonstrate a strong relationship between the number of groups and the number of fora – the more groups, the more fora. This conforms to our argument that the creation of lobbying insiders is a reaction to lobbying overload.

Table 2 Bootstrapped OLS regression of number of fora

| | <i>b</i> | <i>SE</i> | <i>Confidence intervals</i> | |
|---------------|----------|-----------|-----------------------------|--------------|
| | | | <i>0.025</i> | <i>0.975</i> |
| Constant | -11.49 | 24.40 | -54.19 | 39.68 |
| Groups | 0.32 | 0.17 | 0.06 | 0.75 |
| Distributive | 10.76 | 13.62 | -19.14 | 34.39 |
| Personnel | 0.05 | 0.03 | -0.02 | 0.09 |
| Age | 0.17 | 0.57 | -1.11 | 1.07 |
| N: 21 | | | | |
| Adj. R2: 0.36 | | | | |

Notes: Standard errors and confidence intervals are bootstrapped; due to the small N, the parameter distribution is not approximately normal and T-tests are not appropriate.

In the other direction, we find that distributive policy domains have fewer groups than regulatory domains. Since the EU tends to be more active in regulatory policy domains, this relationship points to the supply of policy benefits as an incentive for group activity. In addition, policy domains that deal with issues mainly of interest to national governments have a smaller group presence than policy domains that are primarily of interest to private actors.

These findings also indicate that there is a mutual relationship between the European Commission – and, more broadly, the EU – and interest representation. On the one hand, Commission activity influences the number of groups that seek access to the Commission. On the other hand, as the number of groups increases, the Commission is more likely to restrict access by creating expert committees and other restricted-access fora.

What we have not investigated in this paper is a possible link between interest group activity and output, which may constitute a missing link between the two parts of the story. Increased interest group activity may lead to higher policy output, which in turn leads to more interest group activism and the establishment of restricted-access fora. Substantively, therefore, the mutual relationship between groups and fora points to a dynamic process that cannot be captured by a cross-sectional sample. As a result, one of our main methodological insights is a call for studies that investigate the dynamic nature of EU lobbying. In addition, we show that the study of group mobilization in the EU should not be conducted without the simultaneous investigation of policy-making that affects the studied groups, and vice versa.

CONCLUSION

The main theoretical concern of this study has been a micro-level foundation of macro-level characteristics of the EU lobbying system. The overall empirical pattern that emerges is that *policy makes politics* – in so far as the nature of

the policy good produced and the informal and political demands of the Commission will determine the level of interest activity, style of lobbying and quality of access to the EU institutions. Accepting that the Commission's activity influences lobbying, we observe that the greatest level of lobbying activity clusters around the regulatory policy domains of the Commission. This is unsurprising, considering that this is the area of greatest EU policy by far, and by its nature has the greatest informational demands (Majone 2001). On the supply side, we expect to observe the emergence of direct lobbying activity by interest groups and specialized exchanges of information, as regulatory policy produces a demand for expertise on the side of the Commission and *private* benefits and costs for regulated businesses (Bouwen 2002; Coen 1998). Conversely, the lower levels of lobbying activity in distributive policy domains indicate that these policies are still highly intergovernmental and encourage multi-level venue shopping (Richardson 2000, 2006).

In terms of the emergence of fora, the paper confirms that the Commission creates the largest number of fora in policy domains overloaded by interest group activity. However, we also note that the greatest number of fora occurs in the redistributive domain. This may link back to the previous observation that regulatory policy creates more private benefits and encourages individual lobbying as opposed to collective action. On the institutional demand side, this phenomenon also indicates that the logic of forum creation is driven by the need for input legitimacy in highly politicized policy domains.

Besides providing support for our arguments, the results of our study indicate the direction that future research has to take. In particular, the literature on policy-making and lobbying cycles in the US, where interest group activity has been shown to alternate between venues along the policy cycle and depends on the profile of policy domains (see, for example, Baumgartner and Jones 1993; McFarland 1991; Vogel 1989), will profitably inform systematic research in the EU context. Such a dynamic perspective on EU lobbying also requires an extended theoretical focus that takes account of the interaction between interest group pressure, the resulting institutional structuring of the interaction between EU institutions and lobbyists, and the resulting incentive changes for lobbyists. Recent initiatives to increase the transparency of EU lobbying serve as a reminder that institutional change of interest representation is a continuing presence in EU politics.

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DATA APPENDIX

| <i>DG</i> | <i>Number of fora</i> | <i>Number of groups</i> | <i>Portfolio created</i> | <i>Distributive policy domain</i> | <i>Personnel in DG</i> | <i>Number of policy units</i> | <i>New policy domain</i> |
|--------------------------------|-----------------------|-------------------------|--------------------------|-----------------------------------|------------------------|-------------------------------|--------------------------|
| Agriculture | 71 | 100 | 1958 | 1 | 984 | 29 | 0 |
| Competition | 22 | 39 | 1958 | 0 | 626 | 30 | 0 |
| Development | 33 | 51 | 1967 | 1 | 277 | 17 | 1 |
| Economic and Financial Affairs | 12 | 44 | 1958 | 0 | 465 | 25 | 0 |
| Education and Culture | 90 | 120 | 1973 | 1 | 645 | 13 | 1 |
| Employment and Social Affairs | 56 | 106 | 1958 | 1 | 676 | 25 | 0 |
| Energy and Transport | 104 | 110 | 1958 | 0 | 953 | 38 | 0 |
| Enlargement | 0 | 52 | 1970 | 0 | 333 | 15 | 0 |
| Enterprise | 94 | 221 | 1958 | 0 | 858 | 38 | 0 |
| Environment | 124 | 132 | 1973 | 0 | 541 | 21 | 0 |
| Humanitarian Aid (ECHO) | 18 | 13 | 1958 | 1 | 179 | 4 | 1 |
| External Relations | 25 | 32 | 1977 | 0 | 676 | 28 | 0 |
| Fisheries | 1 | 10 | 1993 | 1 | 290 | 12 | 0 |
| Information Society | 39 | 53 | 1985 | 0 | 1,054 | 35 | 1 |
| Internal Market | 70 | 105 | 1958 | 0 | 437 | 24 | 0 |
| Justice and Home Affairs | 51 | 76 | 1999 | 0 | 368 | 14 | 1 |
| Regional Policy | 59 | 24 | 1973 | 1 | 595 | 23 | 0 |
| Research | 132 | 63 | 1967 | 1 | 1,552 | 65 | 0 |
| SANCO | 55 | 149 | 1999 | 0 | 711 | 26 | 1 |
| Taxation and Customs Union | 99 | 28 | 1958 | 1 | 396 | 23 | 0 |
| Trade | 10 | 64 | 1958 | 1 | 456 | 16 | 0 |

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NOTES

- 1 We provide a formalization of our theory in Broscheid and Coen (2003); here, we present an intuitive summary of our argument.
- 2 Following game-theoretic conventions, we denote the first moving actor in an interaction with the female pronoun.
- 3 Although CONECCS relies on self-reported entries, we believe that it provides valid data for our inquiry. First, our theory refers to actors who have incurred the expertise and costs of credible lobbying. It is likely that the database weeds out those groups that are not serious participants in EU lobbying. Second, the database excludes those actors that do not interact with the Commission.
- 4 Our count of policy-related units is based on the European Commission Directory, <http://ec.europa.eu/staffdir/index.htm>, accessed 22 July 2006.
- 5 The size of the DG workforce is based on the number of positions listed in the European Commission Directory, <http://ec.europa.eu/staffdir/index.htm>, accessed 22 July 2006.
- 6 Lowi (1972) and Wilson (1990) distinguish between distributive and redistributive policies. As both types of policies deal with the distribution of material values, it is not necessary, for our purposes, to distinguish between them.
- 7 Special thanks go to Fabio Franchino and Cornelia Woll.
- 8 We thank Fabio Franchino for permission to use his Commission portfolio data.
- 9 These results are not reported here, but the authors will provide the results on request.
- 10 An alternative reaction to access overload is the consolidation of interest representatives into larger organizations. We do not pursue this possibility in the present study.
- 11 A similar study in which we used the Conneccs data produced slightly different results than the ones presented here (Broscheid and Coen 2006). However, we believe that the EU register of expert groups is the superior measure of the number of fora for interest representation. Nevertheless, *caveat lector*.

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