

The European Informational Lobbying System as an Informal Mode of Governance: a Dynamic Principal-Agent Perspective

*[Working draft: comments and/or criticisms are welcome,
quotations not yet]*

This paper stems from the theoretical necessity of filling a major gap in the literature on European (business) lobbying: the isolation of this scholarship from the mainstream narrative of contemporary European studies, namely the concept of 'governance'. Accordingly, the theoretical model constructed hereafter builds extensively not only on the informational lobbying model, considered as the most appropriate for the European reality, but also on various theorisations of the principal-agent approach arguing, indeed, that the latter cannot be disentangled from the mode of governance in which it is in place. The result is the creation of a novel and dynamic principal-agent model along with an horizontal conceptualisation of accountability employed to analyse the informational lobbying system in place between the Commission and interest groups. By focusing on a case study, namely the Commission expert groups, this paper uncovers the determinants of the access to such groups, namely why certain (few) firms belong to the 'insider club' and why others (many) are excluded. The empirical results speak volume confirming that the Commission by regulating the access to its expert groups acts according to a dynamic principal-agent model fostering thus the creation of a European business lobbying system characterised by direct dynamics, European identity building, transparency and credibility.

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INTRODUCTION

This paper argues that the new form of European lobbying emerged in the mid-1990s needs to be analysed from a principal-agent perspective accounting for the relations between public and private actors. Several scholars (e.g., Broscheid and Coen, 2003; Coen, 2007a; Coen, 2009) promote this view, with a variant the so called ‘informational approach’ to analyse the relation between European institutions, especially the Commission, and interest groups. This approach recognises in the reduction of costs the main motivation for why the EU delegates the information gathering function to interest groups. As a response to the increase in the number of interest groups and the widening of European competences in the 1990s, the Commission started to shape the relations with interest groups in a rather intrusive manner. The Commission in the mid-1990s faced, on the one hand, an ‘interest overload’ and thus the necessity to filter the informational signals and, on the other, the necessity to increase its input legitimacy (Broscheid and Coen, 2003; Mahoney, 2004). As a consequence, the strategy of the Commission was to create a clear distinction between outsiders and insiders utilising the incentive of non-policy benefits, namely the inclusion in the Commission’s network of policy *fora*, consultative committees, expert groups etc. (Coen, 2007a; Coen, 2009). This paper demonstrates that this strategy carried out by the Commission has led to the emergence of a novel European lobbying system characterised by direct lobbying, transparency, European identity-building and credibility.

The ‘informational approach’ represents the starting point of the theoretical model, accounting for the relations between the Commission and interest groups. Nevertheless, this paper argues in favour of a more thorough analysis of the several variants of the principal-agent model as applied to the European modes of governance and to other domains in order to cast a light on the relations between interest groups and European institutions: the objective is to pose it into the broader discourse on the concept of ‘governance’. Indeed, the static approach to the principal-agent model as applied by the aforementioned scholarship is inappropriate to depict a complete picture. Furthermore, the analysis of accountability in a principal-agent interaction deserves more attention than the one which the various authors in this field have hitherto accorded to it. Accountability is, indeed, neither a neutral feature of a governing system nor may it be disentangled from the discourse on European governance (Fisher, 2004; Harlow, 2002; Arnull and Wincott, 2002). Accordingly, in the conviction that behind any conception of accountability lies a precise discourse on European governance (Fisher, 2004; Sinclair, 1993), a novel and dynamic concept of accountability more suitable for this principal-agent relationship needs to be identified. As a conclusion, both the principal-agent approach to the European informational lobbying and accountability dynamics in place therein are posed into the discourse on governance.

As the forerunners of the informational lobbying approach in the American literature warn, social sciences cannot aspire to a ‘theory of everything’ and the selection of manageable units of analysis is of crucial importance (Austen-Smith and Wright, 1996). Besides, differently from natural sciences social sciences cannot rely on the analysis of small events: they necessitate (at least) medium-N theories (Beyers et al, 2008). In this analytical vein, this paper analyses the political determinants of the current European business lobbying system by focusing on a case-study. Indeed, the composition of the Commission expert groups and the characteristics of their participants are correlated to test whether and how the Commission by regulating the access to such

groups influences the interest group population. Drawing on the dataset compiled by Wonka et al (2010) and enriching it with new variables, this study aims to answer the question:

RQ: What are the political determinants of the European business lobbying system characterised by European identity building, transparency and credibility?

After the main developments which have characterised the European business lobbying system in the last decades are overviewed this paper develops as follows. Firstly, the different models of interest group lobbying are briefly illustrated demonstrating thus the appropriateness of the informational lobbying approach for the European reality. Then, a comparison between the contributions of the American scholarship and the European one to the informational lobbying literature is drawn in order to individuate the real discriminant: the role of public authority. Indeed, American scholars have always been rather reluctant in considering the state something more than a mere static structure of opportunities (Prince and Kerremans, 2008; Beyers et al, 2008): informational lobbying is nothing more than an *inter pares* exchange of resources or assets. Remarkably, some studies on European lobbying do not distance themselves from this passive conception of the state: a clear-cut division between these two literature, though of help for the sake of exposition, does not exist in reality. A stream of the European literature (e.g., Broscheid and Coen, 2003; 2007; Coen, 2009; Mahoney, 2004), on its part, frames the relationship between interest groups and the Commission within a principal-agent model. On top of that, not only does the Commission externalise the information gathering function, but it also acts as policy and politics entrepreneur (Coen, 2007b). This variant of the informational approach is extensively illustrated in the ensuing sections. Thereafter, the principal-agent model underpinning the informational approach as conceived by such a part of the European literature is put under inquiry. The theorisation of the relations between interest groups and European institutions as a principal-agent model requires, indeed, some advancements. Acknowledging the necessity to pose the principal-agent model into the specific mode of governance where it is in place (Dehousse, 2008), the several variants of the principal-agent model hitherto theorised by the literature are thoroughly shown. Accordingly, the ensuing part argues in favour of an innovative principal-agent model accounting for European informational lobbying and besides, a more detailed analysis of the concept of accountability, which represents a crucial element of any principal-agent model, is supplied. This paper concludes with the identification of the case study and the analytical part: the model of informational lobbying theorised in the previous parts is tested in the context of the Commission expert groups. The rationale being that the Commission by regulating the access to its expert groups (i.e., through the non-policy benefits, Coen, 2007a; Coen, 2009) influences the dynamics of lobbying and forges the interest group population with the result of a European (business) lobbying system characterised by the aforementioned elements. The empirical results speak volume confirming thus that the Commission acting according to a dynamic principal-agent model fosters the creation of a European business lobbying characterised by direct dynamics, European identity building, transparency and credibility.

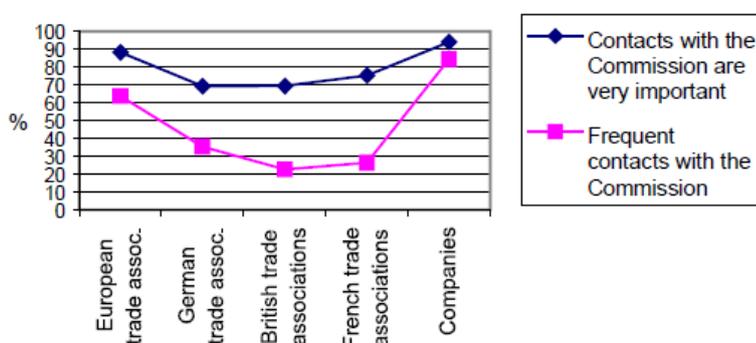
EUROPEAN BUSINESS LOBBYING: NEW TRENDS

Whilst consensus prevails among scholars on the emergence of a novel lobbying system in the aftermath of the signature of the Maastricht Treaty, a comprehensive outlook of this new scenario needs to be built, just like a mosaic, by uniting pieces from several contributions (e.g., Coen, 2007a; Coen, 2009; Broscheid and Coen, 2003; Mahoney, 2004). Accordingly, the European system of interest representation has undergone the following developments since the mid-1990s (even before, for some of them): a tendency of firms to use individual representatives rather than intermediaries; a marked distinction between insiders and outsiders with a strong emphasis on credibility, transparency and European identity building. These developments are individually examined in this section so that a clear outlook of the contemporary European lobbying system is provided before constructing the theoretical approach to analyse them.

From Collective to Direct Lobbying

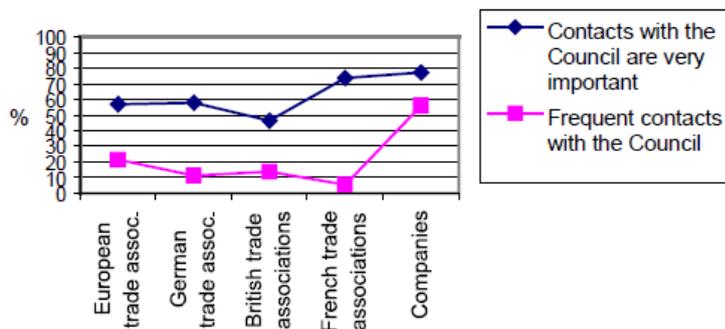
Many authors (e.g., Berkhout and Lowery, 2010; Bernhagen and Mitchell, 2009; Broscheid and Coen, 2003; Coen, 2007a; Coen and Richardson, 2009) emphasise a shift towards a system based on direct lobbying. As Figure 1-2-3 illustrate, direct contacts with public counterparts are of crucial importance for stake-holders and especially for firms. Several studies estimate that nowadays roughly 40 per cent of interest representation at the EP and at the Commission consists of individual actors: firms (24 per cent), think tanks (4 per cent), public authorities (11 per cent), law firms, public relations companies etc. (Berkhout and Lowery, 2008; Coen, 2007a; Coen, 2009). Indeed, not only are companies those actors which consider direct lobbying as the most effective strategy, but they also prove to be the ones which put this strategy into practice most vigorously. Noteworthy is that the Commission is considered to be the most appropriate venue for direct lobbying and the one in which companies are most active in this regard.

Figure 1: Contacts of business interests with the European Commission



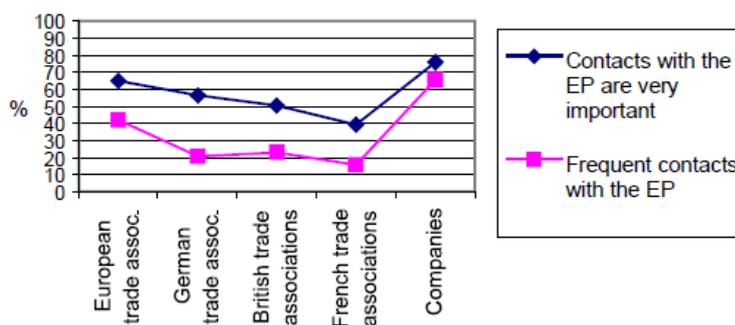
Source: Kohler-Koch and Quittkat, 1999.

Figure 2: Contacts of business interests with the Council



Source: *ibid.*

Figure 3: Contacts of business interests with the EP



Source: *ibid.*

Since the mid-1980s firms have focused their resources on direct forms of lobbying, such as the establishment of a EU liaison office in their headquarters or even in Brussels and the accreditation to the European Parliament (EP) register (Bernhagen and Mitchell, 2009) at the expenses of collective actions. In the period 1988-1994 over 350 companies developed direct lobbying capabilities: from 50 in 1980 through 200 in 1993 to 350 in 2003 (Coen, 2007b; 2009). Wonka et al (2010) identify 493 firms active at the EU level with their public affairs offices¹, of which the great majority is Brussels-based and this is more or less confirmed by other sources: 300 according to Greenwood (2011) and 350 according to Coen (2007b; 2009). Most EU liaison offices either in Brussels or in companies' headquarters are relatively small: usually a two/three personnel staff is employed (Greenwood, 2011; Coen, 1998). Nevertheless, this is not trivial since a two full-time staff office costs roughly 30000 Euros per year (CIPI, 2006)² compared to half of this sum for the annual subscription to an EU business association (Greenwood, 2011). Another indicator of direct lobbying is the accreditation of firms to the EP (Bernhagen and Mitchell, 2009): 4051 individual lobbyists and 1797 interest organisations were accredited in mid-2011³ with an overwhelming presence of economic interests. Indeed, economic and professional interests represent averagely 50

¹ As specified below, attention should be paid when coping with the data from this data set. Indeed, double counting of the weight of 2.3% is present. This figure is provided unadjusted for the sake of exposition but the analytical section employs these data after a due adjustment.

² Considering that the average premium rate for offices in Brussels is about 295 Euros per square meter plus salaries, bonuses, expenses etc. (de Foulloy, n.a.).

³ The use of these data and not more recent ones is due to the fact that on 23 June 2011 the new Joint Transparency Register (JTR) was launched on a joint initiative of the Commission and the EP. This caused a rather confused situation with respect to the different registers and the complete picture was still not clear at the time of writing.

per cent of the total registrants. Needless to say, deriving the scope of direct lobbying from this accreditation system bears several problems: for instance, this pass gives access to data otherwise not available and this attracts also actors not aiming to interest representation (i.e., academics, researchers etc.). Nonetheless, a trend towards direct lobbying at the EP is evident. In fact, direct lobbying of members of the EP (MEPs) and EP civil servants has almost doubled between 1994 and 2005 (Coen, 2007a), especially in those policy domains where codecision (or the ordinary legislative procedure, as named by the Lisbon Treaty) is the rule.

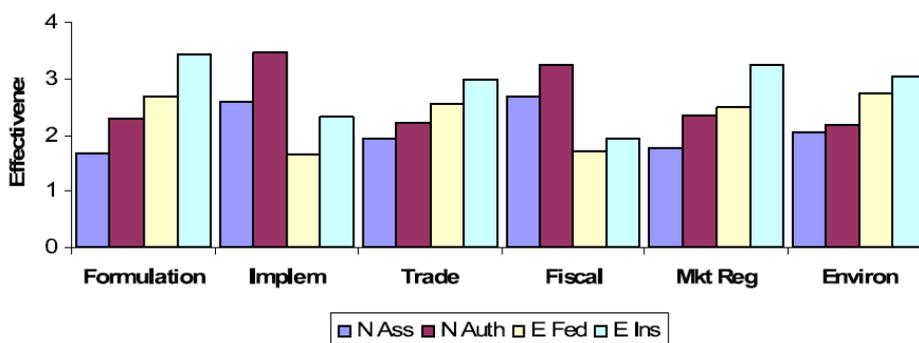
This increased use of direct lobbying practices at the European level has borne three relevant consequences: the restructuring and the professionalization of the company government affairs departments; the emergence of new *fora* for business cooperation and lobbying; the internal reorganisation of the Union of Industrial and Employers' Confederation of Europe (UNICE, renamed BusinessEurope in 2007) (Coen, 1998; Coen, 2009). Not only has the necessity to carry out interest representation as individual actors led to the creation of EU public affairs offices in both/either firms' headquarters and/or Brussels in the aftermath of the SEA, but it has also triggered a deeper restructuring of companies' internal capabilities. In fact, by the mid-1990s the majority of EU affairs company departments "had developed the strategic capacity to provide sophisticated peak level coordination over their subdivisions, cross-border holdings and subsidiaries" (Coen, 1998 p. 80). As a result, firms have undergone a process of centralisation of power contrary to the tradition of subsidiaries' political autonomy typical of many of them due to the need to speak with only one voice vis-à-vis public authority. A 1996 survey carried out within a project of the European University Institute (EUI) and analysed by Coen (1998) reveals such a countertendency with respect to the traditional modes of governance inside companies. The result speaks volume: 75 per cent of the respondents emphasise the strong ties emerged between the head office political affairs division and subsidiaries. In the last decades many large companies have succeeded in this undertaking: for the sake of univocal representation several firms have sacrificed some areas of production as a defined strategy in order to preserve others.⁴ The professionalization of interest groups is usually associated with the critical resource dependence theory employed by European lobbying scholars (e.g., Wonka and Warntjen, 2004; Michalowitz, 2004). Furthermore, through a web survey directed to interest groups conducted between 2009 and 2010 Klüver (2011) demonstrates the professionalization of interest groups as a consequence of their direct contacts with the Commission. This research concludes that European lobbying requires the creation of positions with a high degree of qualification in terms of educational training and political experience. This approach is not unfamiliar to that scholarship built on a human resource approach to lobbying (e.g., Wright et al, 1994), which has recently been transposed to circumscribed contexts, such as the US (e.g., Skocpol, 2003), the UK (e.g., Jordan and Maloney, 1997) and human rights NGOs (e.g., Martens, 2005).

Another *phenomenon* fostered by the emergence of direct lobbying dynamics is the creation of new business groupings in some of those domains where direct lobbying is perceived as the most effective venue, namely trade and market regulation (Coen 1998; 2007a; 2009; Coen and Grant,

⁴ Mention-worthy are the cases of BP and Siemens. When they faced EU environmental legislation affecting their interests as a whole, they both developed a strategy at the top level whereby some areas of production (respectively, fossil fuels and electronics/high technology) were prioritised at the expenses of others (respectively, ethanol production and furniture) (Coen, 1998).

2000; Woll, 2009; Greenwood 2011)⁵. Indeed, the 1990s have witnessed the profusion of a novel EU logic of collective action in line with the tendency of business direct lobbying. Indeed, the scenario of business interest associations passed from one characterised by pure federations (i.e., European associations made up of national associations) to one in which also firms participate directly and actively. Nowadays, EU business associations consist of: federations (60 per cent), mixed associations (24 per cent) and large firm clubs (16 per cent) (Greenwood, 2011). An example of mixed associations is the Confederation of the Food and Drink Industries (CIAA) in the agro-industry since 2000, when direct company membership was allowed (Grant and Stocker, 2009). Examples of large firm clubs are the Transatlantic Business Dialogue (TABD) in the European transatlantic trade policy and the European Round Table (ERT) in market regulation, as cross-sectoral associations. Many others are present at the sectoral level: the European Services Forum (ESF) in services market and the one active in the financial services (i.e., the European Roundtable of Financial Services, ERFS) and the retail domain (i.e., the European Retail Round, ERR) (Greenwood, 2011). They are all part of that trend which “has led many Commissioners and Director Generals to create their own constellation of industrialists” (Coen and Grant, 2000 p.3). It is worthy briefly mentioning the characteristics of such associations allowing direct lobbying dynamics: a strong role of the Commission in their establishment, a flexible structure with a company driven decision-making process (usually CEOs take an active part) and a weak secretariat, a selective membership and a focus mainly on single issue representation (Coen and Grant, 2000; Cowles, 2001; The European Evaluation Consortium, 2004; Eising, 2007; Woll, 2009; Coen, 2009; Greenwood, 2011). In sum, they represent the opposite scenario of European traditional federations in that a high room for manoeuvre of members is associated with a limited one of the association as a single entity: they are no more than short life issue alliances (Mahoney, 2008)⁶.

Figure 4: Variance of Perceived Effectiveness of Business Lobbying Channels per Issues.



Source: Coen, 2007a.

Last but not least, the proactive role undertaken by firms at the European level led to the internal restructuring of UNICE. Created in 1958 on the wave of the signature of the Rome Treaties, Business Europe is nowadays the most significant business-wide federation comprising 40 full

⁵ Figure 4 reveals the perceived effectiveness of business lobbying venues across policy domains. The data are taken from the research project carried out by Coen (1998) and refers to the year 1994.

⁶ Revealing of the mood surrounding such novel groupings is the following sentence pronounced by a TABD official (in Coen and Grant, 2000 p.13) in the light of the future agenda of his/her association: "We have got a bit cumbersome, we need to focus on hotter items, low hanging fruit (like product liability)... Three years ago we had 115 recommendations all equal priority and it seemed a lot. Today we have 130 - 140. You can do more, but the secretariat gets behind and people don't necessarily want it, you become an infrastructure." Considering that TABD copes with transatlantic trade issues and it comprises the CEOs of the most important companies of both sides of the ocean, complaining about 130-140 recommendations seems to be an exaggeration. On the contrary, this is telling about the approach firms bear with themselves when they set up this type of associations.

members based in the EU-27 MSs, EFTAs and some candidate countries. It employs a 45 full-time staff and it declares between 550000-60000 Euros in lobbying EU institutions (Greenwood, 2011). Its character of traditional federation of national associations put the UNICE in a critical situation when it faced the new trend of direct lobbying which swept the European business lobbying system in the mid-1990s. As pointed out by Betts (2001 in Greenwood, 2011 p.77):

UNICE's problem is that it consists of a federation of confederations. It is a heavily bureaucratic system, even though it is the only recognised body that represents formally the whole of European industry. In short, it is a reactive institution whereas the ERT with its minimal bureaucracy is proactive.

The privatisation of lobbying as the emerging trend in the EU of the mid-1990s clashed with such a cumbersome and static structure. As a result, several steps have been taken to match the necessity to facilitate direct firm participation: the Advisory and Support Group and the ERT were set up (Coen, 1998; Eising, 2007; Greenwood, 2011). They comprise respectively 38 and 45 large firms guaranteeing large companies' direct participation in the decision-making process. As a result, it is beyond any doubt that the 'direct lobbying trend' has massively affected also BusinessEurope, which up to then was considered the perfect example of a traditional European federation. This is not trivial in that the concept of 'elite pluralism' or 'semi pluralism' in vogue among authors (Cowles, 2001; Schmidt, 2006) has recently been challenged by Eising (2007). The latter, indeed, drawing on the data collected by himself and by Bouwen (2002; 2004) and utilising the latter's 'morphology of access' criticises the fact that EU interest representation is biased towards business interests. Eising's (2007) argument is that since access of firms and of EU associations to EU institutions do not differ in a relevant manner, advocates of 'elite pluralism' fall short in understanding the real mechanisms governing European lobbying. Yet, Eising (2007) seems to underestimate the developments just mentioned which have characterised EU collective action in the last decades. Indeed, since the novel groupings are built purposely to facilitate the direct participation of firms and the traditional EU economic federations have undergone reforms in this regard, measuring the number of contacts EU associations have with EU institutions is not (longer) an indicator of indirect lobbying.

The 'Elite Forum Based' Politics and the Importance of Credibility, Transparency and European Identity Building.

Since the mid-1990s the European interest group population has experienced a marked division between insiders and outsiders (Coen, 1998; Falke, 1996; Broscheid and Coen, 2003; Broscheid and Coen, 2007; Coen, 2009) due to the use of direct subsidies, consultative committees, expert groups⁷, policy *fora*, seminars, workshops etc. on the part of the Commission⁸ (Obradovic, 2009; Quittkat and Finke, 2008). The increasing use of direct subsidies to interest groups has been aimed to alleviate the business bias typical of interest group populations⁹ (Mahoney, 2004; Hosli et al, 2004; Coen, 1998; Cowles, 2001): "the heavenly chorus sings with a strong upper class accent" (Hueglin,

⁷ The register of expert groups is available at <http://ec.europa.eu/transparency/regexpert/> [Accessed 23 November 2011].

⁸ For an in-depth account of the consultation tools employed by the Commission in the employment and social affairs domain see Quittkat and Finke, 2008.

⁹ The premise that biased representation leads to biased policies has been central in the American literature since the work of Schattschneider (1935).

1999 in Eising 2007 p. 384). As Figure 5 shows, business lobbyists combined receive 14 per cent of the Commission's funds, whereas citizen groups count for 44 per cent (Mahoney, 2004; Mahoney and Beckstrand, 2009). In this case rhetoric has been followed by reality. In a research study carried out by Mahoney and Beckstrand (2009) on the data provided by the CONECCS, 64 groups out of a total of 685 declared European funding¹⁰. For instance, the G10, namely the EU environmental NGOs, declare 4-4.5 million Euros of annual funding from the EU budget, which overwhelms the collective resources of the five most important EU business associations, namely AMCHAM-EU, Business Europe, ERT, EUROCHAMBERS and UEAPME. Nevertheless and despite its 'good intentions', the massive funding allocated by the Commission has created a marked distinction between insiders and outsiders within the various types of groups and thus also within citizens' groups (Mahoney, 2004). Furthermore, this massive funding scheme casts doubts on the autonomy and independent of recipient interest groups. Indeed, EU funding represents an important part of many NGOs' budget: from 13 per cent of the World Wide Fund for Nature European Policy Office (WWF-EPO) budget to 84 per cent of the European Women's Lobby (EWL) budget (Greenwood, 2011).

Figure 5: Commission's funding recipients per type¹¹

Type of organization	Number	Percent
Citizen organization	28	43.75
Youth/Education	11	17.19
Trade association	5	7.81
EU integration group	5	7.81
Professional association	3	4.69
Association of institutions	3	4.69
Religious organization	2	3.13
Political association	2	3.13
Federation of associations	2	3.13
Labor union	1	1.56
Business association	1	1.56
Research group/ foundation	1	1.56
Total	64	100

Source: Mahoney, 2004.

In the last 30 years, a particular arrangement has developed where industry has become to be perceived as a legitimate interlocutor of EU institutions and an integral part of the decision-making process therein. During the Val Duchesse Meeting in 1985 organised by the Delors Commission the principle of 'partnership' entered the debate on the role of social partners in the EU (Quittkat and Finke, 2008). The result, along with the broadening and deepening of societal involvement, was the progressive institutionalisation of the consultation regime (Quittkat and Finke, 2008). Since then, the Commission has developed a regulatory agency style akin to those in place between national regulatory agencies (NRAs) and firms acting at the national level (in the UK, for instance) (Coen, 2005; Coen, 2009): an 'elite forum-based' politics has emerged (Coen, 2007b). Functional to such a project has been the establishment of policy *fora*, expert groups and consultative committees by the

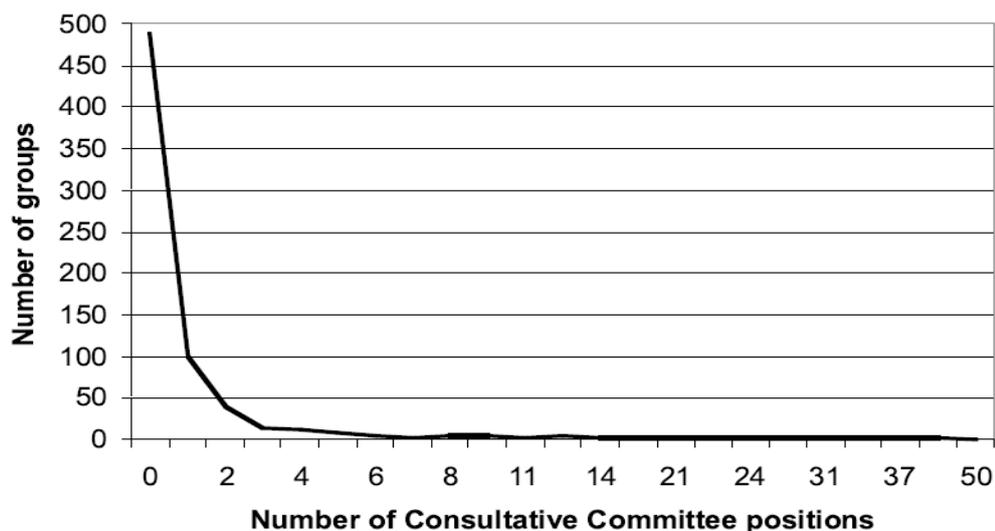
¹⁰ A caveat is needed: although the CONECCS provided a good amount of data, some of which disappeared during the passage towards the new register, it was rather fallacious in supplying data regard funding. Indeed, registrants were very sceptical in publishing these type of data and no binding obligation was in place in this regard.

¹¹ This research study was conducted on the basis of the data on 700 interest groups in the 'Consultation, the European Commission and Civil Society' (CONECCS) in 2002.

Commission. This is a very variegated reality and the differences between these organs are usually cryptic: the Commission expert groups are thoroughly examined in the ensuing sections.

Despite the opinion of some scholars (e.g., Greenwood, 2011) the creation of policy *fora*, committees and groups on the part of the Commission has not been aimed to alleviate the aforementioned overrepresentation of business interests: rather, they have accentuated the division between insiders and outsiders. For instance, the distribution of the seats in the then (i.e., in 2002) 124 Consultative Committees favoured few insiders: the Committee of Agricultural Organisations in the EU (COPA) has a seat in 40 per cent of all such committees (Mahoney, 2004). The strong bias of such a system is illustrated in Figure 6: two thirds of the interest group population is left out. Furthermore, Figure 7 illustrates the bias of the system of consultative committees with respect to the external environment. Mahoney (2004) by comparing the relative composition of the Commission Consultative Committees with the interest group environment stresses the fact that business is overrepresented by 10 per cent in the former. Noteworthy are two factors, which will be analysed in detail below. First of all, as a general consideration, the system created *ad hoc* by the Commission biases interest representation in that it does not mirror reality: only in very few areas, such as citizen interests, the committees' composition reflects the external environment. Secondly and accordingly, this system does not even aim re-balance the already biased representation system since it overrepresents economic interests, which are those most present outside of it.

Figure 6: Number of Groups v. Number of Consultative Committee positions



Source: Mahoney, 2004

Figure 7: Relative Composition of Committees v. Interest Representation Environment

Organizational type*	Interest group environment		Committee system	
	Number	Percent	Number	Percent
Trade Association	349	51.93	112	59.57
Citizen or Ideological	87	12.95	28	14.89
Business	32	4.76	13	6.91
Professional	82	12.20	12	6.38
Association of EU regions	15	2.23	7	3.72
Union	8	1.19	5	2.66
EU integration group	18	2.68	4	2.13
Youth/student	28	4.17	3	1.60
Federation of associations	4	0.60	2	1.06
Political group	7	1.04	1	0.53
Research group	8	1.19	1	0.53
Religious	15	2.23	–	–
Association of institutions	18	2.68	–	–
Association of international regions	1	0.15	–	–
Total	672	100.00	188	100.00

Source: Mahoney, 2004.

This new trend in European lobbying has been characterised by a strong *emphasis* on reputation, transparency and ‘European identity building’. Not by chance, Mahoney (2004) finds a strong correlation between the inclusion in the Commission Consultative Committees and reputation (using as indicator the organisational age of the interest group). More practical approaches to European lobbying, namely those setting up a *vademecum* for lobbyists (e.g., Burson and Marsteller, 2003; 2009; CIPI, 2006; Van Schendelen, 2010), recognise the importance of establishing reputation credentials via an active profile in several issues. Furthermore, a common device used by economic interest groups to increase their credibility, namely what is termed ‘transversal lobbying’, is to create more or less fluid coalitions with the other parts of civil society. Indeed, not rare at all are single issue coalitions between firms or business associations and NGOs (Greenwood, 2011). The rationale being straightforward: in these alliances business actors gain credibility in exchange of expertise and privileged access. As shown below, the new developments characterising EU lobbying are not unique: a marked trust-based relation between regulators and interest groups exists also in the UK in the telecommunication and energy sectors (Willman et al, 2003; Coen, 2005; 2009). Such a type of interaction seems to be typical of those regulation systems where high room for manoeuvre is in the hands of regulators, being a NRA or the Commission. Reliability in providing information to the Commission and avoiding babbling is a crucial requirement to become part of the ‘club’ (Broscheid and Coen, 2007). This is not trivial at all representing, indeed, the basis of the novel EU representation system: trust-building in the relation between the Commission and interest groups and among interest groups themselves has come to play a pivotal role. This aspect, along with the political rationale behind it, is analysed in detail below: credibility is assumed to be a necessary condition for establishing a long-term relationship with the Commission.

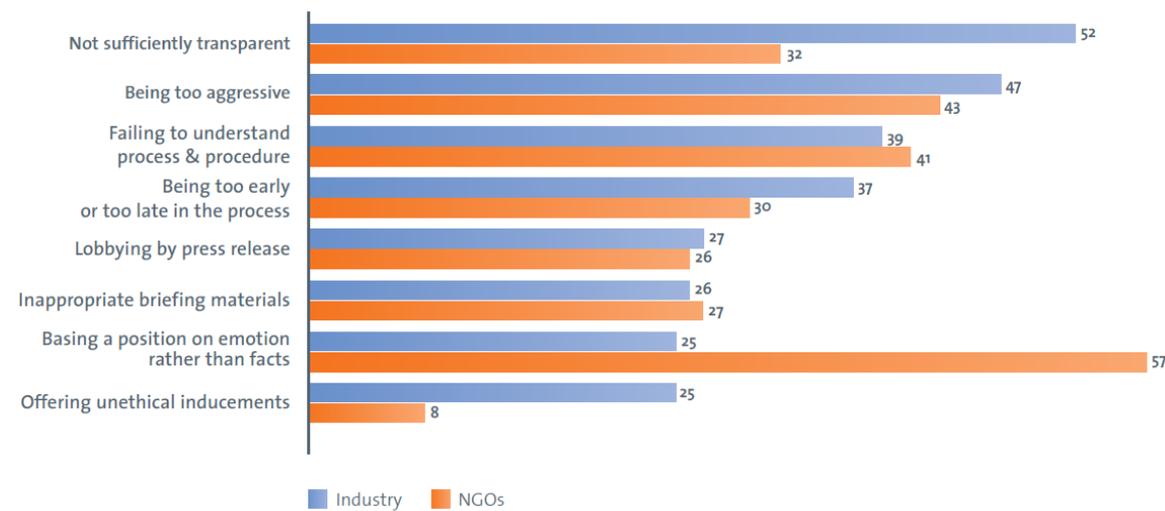
The necessity to dress an interest with European clothes has increasingly been felt by interest groups in the last decades. Indeed, direct lobbying at the European institutions, especially the Commission, has been mainly achieved through European identity building: an interest has to be European in character in order to be taken into account (Bouwen, 2004; Burson and Marsteller,

2009). Several studies on the logic of access to European institutions demonstrate this aspect: ‘European encompassing interests’, in Bouwen’s (2004) terminology, are those which mostly access the Commission (Bouwen, 2004; Eising, 2007). Indeed, European associations are the most represented at the Commission, whereas the least represented are national associations (Bouwen, 2004; Eising, 2007): European associations’ access rate is 43 per cent for the Commission, 38 per cent for the EP and 11 per cent for the Council (CIPI, 2006). The theories on the ‘logic of access’ and their assumptions are thoroughly reviewed in the ensuing parts being of crucial importance for the theoretical framework employed in this study. Interest groups have shifted from a reactive and destructive lobbying to pro-active strategies by creating *ad hoc* and fluid coalitions in order to dress their interests with European clothes (Coen, 2007a), as mentioned above. This has also been demonstrated by specific case-studies. For instance, successful lobbying battles have been detected in policy domains such as financial services and telecommunications, where interest groups managed to access the Commission in that they represented pro-liberalisation and thus European interests. The contrary occurred in agriculture and textile where economic interest were linked to a marked national protectionist approach (Woll, 2009). Furthermore, a group is more likely included in a consultative committee if it represents a large constituency, namely if the interest is European in scope and nature (Mahoney, 2004). In fact, Mahoney (2004) finds a strong correlation between the high layer of the organisation (i.e., Euro-groups and umbrella organisations) and participation in the Commission consultative committees. Accordingly, the wider is the constituency of an association, the higher is the probability to take an active part in such consultative committees. In a similar vein and drawing on the ‘logic of access’, the following section hypothesises that European identity-building (or better, the capacity of a firm to engage in groupings at European level) is a prerequisite for entering the Commission expert groups system.

The increasing demand for credibility by the Commission has been intertwined with the pivotal role transparency must play in the participatory dynamics both on the side of European institutions and on the side of interest groups. Transparency has been perceived as a more and more crucial aspect of lobbying. A survey carried out among EU officials by Burson and Marsteller (2009) clearly illustrates that being transparent about the interest represented is an effective way to be considered at the EU level. Figure 8 shows the results of such a survey demonstrating that the worst lobbying practices are perceived to be the ones lacking in transparency. As may be easily perceived, industry is the most inclined to opaque lobbying practices. Along with being part of the (at least proclaimed) professional morale embraced by EU officials, transparency has been at the centre of the approach EU institutions have employed to regulate lobbying since mid-1990s (Quittkat and Finke, 2008). Indeed, ‘lobbying regulation’ refers to a broad *spectrum* of arrangements, from detailed legislations (e.g., the American 1995 Lobbying Disclosure Act) to deontological approaches aiming at self-regulation. European states stand at the ‘soft end’ of this *continuum*: among the 27 MSs only the German Bundestag and the Scottish Parliament envisage the compilation of a register comprising lobbyists and only in the former registration is compulsory (CIPI, 2006). So is the EU, for the Commission has promoted a markedly deontological approach with the stated aim of drawing clear boundaries between the proper policy-making process and the consultation of the civil society (CEC, 2002a). This ‘self-regulatory approach’ is clearly emphasised in many EU official documents, such as the 2009 Communication ‘European Transparency Initiative: the Register of Interest Representatives, One Year After’ (i.e., CEC, 2009). Indeed, “self-regulation should remain a key component of the system” (CEC, 2009 p. 4), as this document states. The 2001 White Paper on European Governance (i.e., CEC, 2001), the 2002 Communication ‘Towards a reinforced culture

of consultation and dialogue' (i.e., CEC, 2002a), the 2006 Green Paper on transparency¹², the various registers¹³ and the code of conduct¹⁴ must be conceived within this deontological strategy. Under this light may be seen also the novel joint Transparency Register (TR) launched on June 23 2011 and repealing the Commission Register of Interest Representatives and the EP Accredited Lobbyist scheme (Greenwood and de Castro Asarta, 2011)¹⁵. Revealing of the importance granted to transparency in the European policy-making is the fact that also those regulatory tools utilised by the Commission (i.e., expert groups, consultative committees etc) are governed by this principle. In fact, the Commission in a working document clarified the five consultation standards applicable to such *fora*, among which transparency in the relations between the Commission and civil society is listed (CEC, 2002a). Although being only mentioned in this paragraph, a detailed illustration of the legal bases of the approach of the Commission centered on transparency is supplied below. Besides, special attention is to be accorded to the regulation of the expert groups.

Figure 8: 'What are the most frequent poor lobbying practices by Industry and NGOs ?'



Source: Burson and Marsteller, 2009.

As a conclusion, the European business lobbying system has undergone significant developments in the last decades: firms have increasingly acted directly in the European arena; a neat division between insiders and outsiders, actively promoted by the Commission, has arisen; within the Commission 'insider club' a marked emphasis on European identity-building, credibility and transparency has emerged.

¹² COM (2006) 194 final, 3 March 2006.

¹³ Such as the expired CONECCS, the Register of Interest Representatives of the Commission and the List of Lobbyists accredited to the European Parliament. See http://europa.eu/lobbyists/interest_representative_registers/index_en.html [Accessed 10 June 2011].

¹⁴ The Code of Conduct was established together with the Register of Interest Representatives of the Commission through COM(2008) 323, 27 May 2008.

¹⁵ Since it is not the objective of this work to provide a detailed analysis of EU lobbying regulation, the topic is managed only in very general terms. For a comprehensive attempt consult Obradovic, 2009; Greenwood, 2011; Greenwood and de Castro Asarta, 2011. The latter is the most recent at the time of writing. For an heterodox approach to EU lobbying regulation see Coen, 2007a.

INFORMATIONAL LOBBYING

This part illustrates the informational lobbying model as one of the most successful approaches employed by the American literature since the 1980s (e.g., Becker, 1983; Potters and Van Winden, 1992; Austen-Smith, 1993; Austen-Smith and Wright, 1992; 1994; 1996). The main contributions of this stream of studies are overviewed along with their theoretical assumptions and empirical conclusions arguing in favour of the applicability of such an approach to the European reality. Not by chance, attempts to use it also in the European domain (e.g., Bouwen, 2002; 2004; Crombez, 2002; Eising, 2007) and in national contexts (e.g., Bernhagen and Bräuninger, 2005) are not rare. Noteworthy is how this approach has evolved and it has been employed for the most diversified analytical objectives. Emerged as a method accounting for the influence of lobbyists on legislators in American studies (e.g., Austen-Smith, 1993; Austen-Smith and Wright, 1992; 1994; 1996), it has been literally transposed to the European reality (e.g., Crombez, 2002) and to national ones (Bernhagen and Bräuninger, 2005). Then, it has been adapted to the ‘theory of access’ (e.g., Bouwen, 2002; 2004; Eising, 2007) and to different variants of the so called ‘critical resource dependence theories’ (e.g., Michalowitz, 2004; Klüver, 2011) in the European domain. Finally, the informational approach has been employed in a theory of access from a principal-agent perspective accounting for an active role of the European institutions (Broscheid and Coen, 2003; Coen, 2007a; Coen, 2009). In the same vein, the informational approach will be hereafter employed as theoretical framework for the objective of this work: uncovering the processes whereby the current European business lobbying system has emerged. An illustration of the informational approach cannot transcend from a discussion on the role of public authority in coping with interest groups. This part copes with those models both of the American and the European tradition entailing a passive role of the state paving the way for the unblack-boxing of its dynamics in the following section. The latter, indeed, poses the informational model into a principal-agent perspective reserving an active role to the public authority.

Informational Lobbying: the American Origins

Various models of interest group lobbying may be individuated in the American literature and the principal ones are indicated by Crombez (2002), Austen-Smith (1993) and Austen-Smith and Wright (1996): from models where interests groups compete for goods supplied by the politicians, through models accounting for campaign contributions in exchange for services, to informational models of lobbying. The first cluster emphasises the rent seeking nature of lobbying and they focus especially on the type of goods provided by the public authority: the regulatory rent seeking system characterising European lobbying is not appropriate for such an approach. The second cluster (e.g., Baron 1989) is closely linked to the particular case of American lobbying where to campaign contributions are usually attached some forms of conditionality. Again, this is obviously not the case of European lobbying. This part, in fact, advocates in favour the necessity of applying an informational model to the European reality.

Informational lobbying is based on a fundamental precondition: information asymmetry between policy-makers and lobbyists (Austen-Smith, 1993; Crombez, 2002; Klüver, 2011). Indeed, this approach to lobbying stems from the American scholarship studying the internal law-making

process: for instance, studies on how the distribution of information within a committee influences its deliberative outcomes (e.g., Austen-Smith and Riker, 1987) and studies on the relations between technical committees and legislative bodies (e.g., Gilligan and Krehbiel, 1987; 1990). These works emphasise that the asymmetric distribution of information may drive some actors to reveal or conceal strategically private information to manipulate the decision-making outcomes (Crawford and Sobel, 1982; Austen-Smith and Riker, 1987; Crombez, 2002). The novelty of such approaches is to focus on an already thoroughly discussed topic with innovative tools. Indeed, several scholars (e.g., Mill, 1910; Milton, 1927; Downs, 1957) have hitherto theorised on the consequences of incomplete and imperfect information on the decision-making process, but very few of them have utilised complex analytical models. Building on such novel devices these new approaches aim at analysing to what extent a decision-making process incentivises actors to reduce the information asymmetry (e.g., Austen-Smith and Riker, 1987) or at individuating the circumstance where the informed actor exerts influence on the uninformed one (e.g., Gilligan and Krehbiel, 1987; 1990).

One of the first attempts to provide an informational lobbying model (i.e., Austen-Smith, 1993) draws exactly on the model theorised by Gilligan and Krehbiel (1987; 1990) replacing though the technical committee with the lobbyist: lobbying is conceived as a game of strategic information transmission. The focus is always on the passage from informative to influential lobbying strategies. As defined by Crombez (2002, p. 13): “A lobbying strategy is informative if it changes the receiver’s beliefs [...] It is influential if the receiver’s subsequent decision is different depending on the message or signal sent”. Austen-Smith (1993) in his pioneering analysis demonstrates how informative lobbying in order to be influential has to adapt according to the stage of the law-making process: agenda-setting and voting require two completely diverse informational strategies. The same author in collaboration with Wright (Austen-Smith and Wright, 1992) develops a behavioural model to study influential lobbying in a three actor game: two rivals strive for affecting the voting behaviour of the legislator. This approach introduces the concept of ‘counteractive lobbying’ and the same authors apply it to several case-studies (Austen-Smith and Wright, 1994; 1996). Needless to say, this extremely complicates the model in that the informational lobbying depends not only on the *equilibria* between the legislators’ preferences and the lobbyist’s ones (Crawford and Sobel, 1982) but also on those between the latter and the other lobbyist’s preferences. Such complex behavioural models, mostly based on spatial models accounting for the preferences of the various actors (e.g., Austen-Smith and Wright, 1992; Crombez, 2002; Bernhagen and Bräuninger, 2005) and on reputational models accounting for the influence of an actor on the decision-making process (e.g., Wonka and Warntjen, 2004), fall beyond the scope of this work. Nevertheless, the assumptions of such studies supply a theoretical background for the applicability of the informational approach to the European reality.

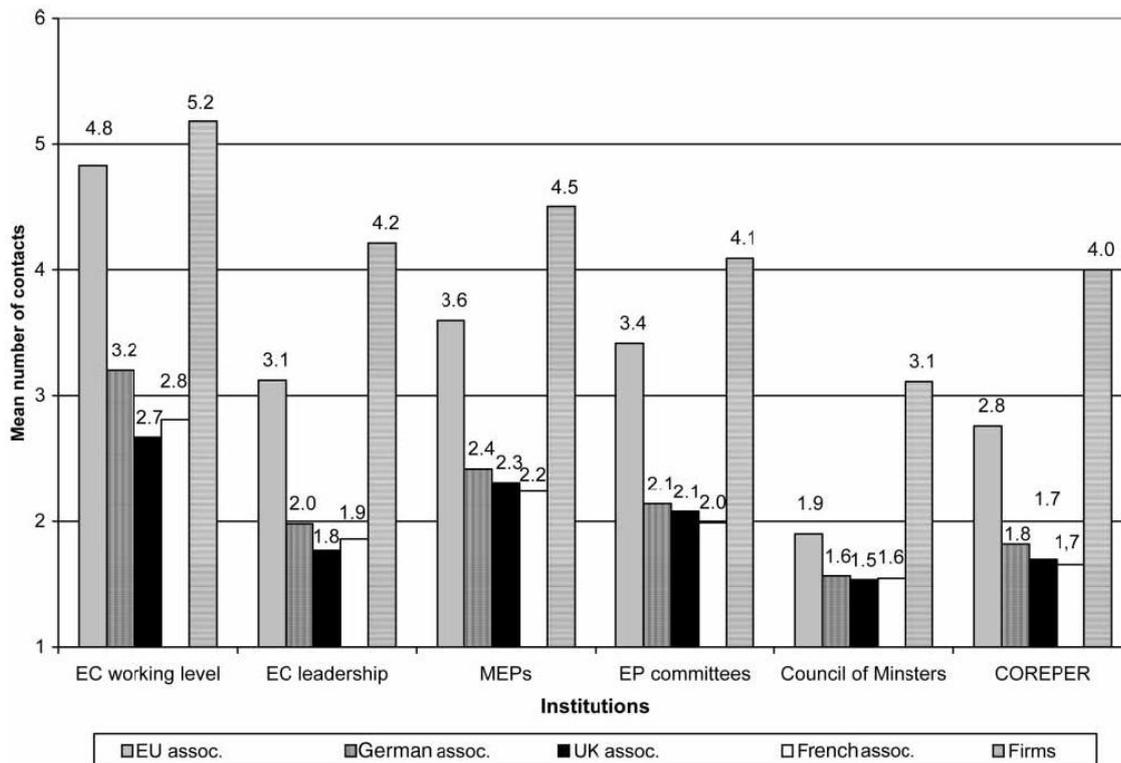
Informational Lobbying: the Transposition to the Other Side of the Ocean

The European literature on lobbying has not been immune to the appeal of informational complex analytical models. Crombez (2002) drawing on his own theorisation of the European decision-making process (Crombez, 1996; 2001) and on the modelling of informational lobbying designed by Austen-Smith (1993) tailors a spatial model accounting for interest groups’ influence under codecision and consultation. In the same analytical vein of the American literature, he draws conclusions on how informative strategies must adapt in order to be influential according to the

procedure at work (i.e., either codecision or consultation), to the procedural stage (i.e., either agenda setting or voting) and to the preferences of the stakeholders (e.g., the EP and the MSs). Bernhagen and Bräuninger (2005), on their part, adapt the core of the existing models of strategic information transmission to the specificity of businesses as lobbyists and besides, they frame it into a national electoral context. Relying on two case-studies, namely the regulation of small business banking in the UK and the phasing out of the PVC components in a German Land, the two scholars provide a complex spatial model of informational lobbying. Noteworthy regarding such an approach is the extension of the temporal horizon: their ‘signaling model of business lobbying’ functions as an iterated game rather than a single-shot one. Accordingly, the reputational costs of lying (or, as in Broscheid and Coen, 2003, babbling) assumes a crucial role: “business representatives have a strong, long-term interest in maintaining their reputation as suppliers of good information” (Bernhagen and Bräuninger, 2005 p.47). Besides, they acknowledge the fact that misinformation may be detected only after an *ex post* evaluation. These two elements, namely reputational costs from a long term perspective and the *ex post* evaluation of information, play a pivotal role in the model employed by this paper and identified hereafter.

Informational Lobbying: the ‘Theory of Access’

The informational lobbying approach has, nonetheless, become familiar to the European literature in another variant: the theory of access. This theory, as conceived by its main proponents (e.g., Bouwen, 2002; 2004; Eising, 2007), aims at uncovering the rationale behind the degree of access to European institutions and the use of different lobbying venues by interest groups. Aloof from any strategic game, this approach correlates the demand side (i.e., the European institutions) to the supply side (i.e., interest groups) in a resource dependence theory. Inter-organisational exchange of goods is at the basis: interest groups supply information in exchange of access to the decision-making process (Bouwen, 2002; 2004). Access is determined mainly by the goodness of fit between the resources of interest groups and the institutional opportunities (Bouwen, 2004; Eising, 2007). Indeed, the internal arrangements and competences of European institutions shape the structure of opportunities for interest groups. Figure 9 illustrates the access patterns of business actors, namely business associations and firms. As may be easily extrapolated, national business associations enjoy far less access to European institutions than European business associations. The reason being, according to the ‘theory of access’, that European associations can provide the Commission and the EP with the ‘right’ type of information, namely information about the so-called ‘encompassing European interest’ of their members (Bouwen, 2004). The logic underneath this approach and, particularly, the close interconnection proved by such scholars between the Commission and business interests with the emphasis on the concept of ‘encompassing European interest’ is of great value for this paper.

Figure 9: Contacts among State and Business¹⁶

Source: Eising, 2007.

Informational Lobbying: the ‘Critical Resource Dependence Theory’

Other authors apply the informational lobbying approach to the European reality. Indeed, both the work of Klüver (2011) and Michalowitz (2004) stem from this approach though widening the concept of ‘resource dependence’. Indeed, they construct a ‘critical resource dependence theory’ (Beyers and Kerremans, 2007) with similar assumptions but with different objectives. The former, by combining the theory of interest mobilisation with the organisational contingency model, aims at identifying the determinants of information supply. By analysing the information supplied by interest groups via the Commission online consultations¹⁷, she correlates the institutional context of the EU with the internal characteristics of interest groups. The fit between the organisational structure and the institutional environment determines interest groups’ ability to deliver information (Klüver, 2011). The conclusions speak volume: the more the internal organisation of an interest group is functionally differentiated, professionalised and decentralised and the more it fits with the structure of opportunities created by the Commission and, in turn, the more information it supplies. The marked emphasis on the Commission from an informational lobbying perspective, despite still relegated to a passive role, and the concept of fit between the structure of incentives and interest groups’ characteristics employed by Klüver (2011) are of crucial importance for this paper.

¹⁶ On the y-axis values refer to frequency of contacts: 1 no contacts, 2 annual, 3 half-yearly, 4 quarter-yearly, 5 monthly, 6 weekly contacts.

¹⁷ Noteworthy is the innovative process of operationalization behind the informational lobbying approach of such a work: at the current theoretical state of art it is the first attempt to quantify the information supplied by interest groups, objective which in informational lobbying models should not sound so eclectic. Klüver (2011) employs the quantity of words as a measurement of the information supply close in spirit to the operationalization of the complexity of policy issues utilised by a part of the European literature (e.g., Franchino, 2000).

Mention-worthy is that the concept of fit represents an interesting and smart analytical device. Indeed, it denotes only implicitly a causal assertion, which is not of easy demonstration in social sciences. The author is very cautious in avoiding any explicit causal relationship between the demand side and the supply side: she limits to state that the goodness of fit between this two is an important condition for information provision. Willingly or not, a causal relationship is implicit but, nevertheless, present. In order to make it explicit the activist role of the state must be assumed.

Michalowitz (2004) utilises the informational lobbying approach in a traditional vein: European institutions exchange access for expertise and compliance. Indeed, not only are interest groups supposed to furnish useful information to decision-makers but they can also become allies of the Commission or the EP in pushing for a proposal, for instance against MSs (Michalowitz, 2004). The objective is to explain the diversified composition of the European ‘lobbying market’, namely why actors use different venues and strategies to deal with the European institutions. Indeed, private interests act through different venues and adopt different strategies to arrive at an optimal level of satisfaction (i.e., fit, in Klüver, 2011) of the institutional demand. The logic behind this approach is not dissimilar to Klüver’s (2011): in the latter the structure of incentive indirectly influences the internal organisation of interest groups, whereas in this case the focus is on the ‘lobbying market’ as a whole. In other words, from the internal (to the interest group) functional differentiation the attention moves to the external one. The real difference lies in the role of public authority: Michalowitz (2004) conceives European institutions in a hierarchical relation between public and private actors. The preeminent position of European institutions vis-à-vis interests groups and the consequential influence exerted on European lobbying dynamics and practices, especially with respect to a functional differentiation of the various lobbying strategies, represents a crucial assumption of the model tailored in the ensuing sections. Nevertheless, in Michalowitz’s (2004) work the role of the European institutions is still not active. Indeed, due to structural reasons (i.e., their monopoly over access) they can enjoy a predominant position in the exchange of resources vis-à-vis interest groups, but they do not directly exert influence on them.

Informational Lobbying: What to Learn

Before proceeding to a broader discussion on the principal-agent models, it is worth briefly emphasising the issues raised above, which reveal indispensable for the elaboration of the model in the following sections. First of all, information asymmetry plays a crucial role in European lobbying: the understaffed bureaucracies (Crombez, 2002; Klüver, 2011; CIPI, 2006; Greenwood, 2011), the diversified range of tasks and the increasingly level of detail needed by the policy-making process (Coen and Richardson, 2009; Klüver, 2011; Michalowitz, 2004) render European institutions, and especially the Commission, highly dependent on external expertise. Accordingly, the ‘political money’ (Eising, 2007) in the European system is not represented by votes or campaign contributions, but information. Several empirical works (CIPI, 2006; Burson and Marsteller, 2003; 2009) show that lobbyists achieve access to the European decision-making process by supplying reliable and timely information. The annual survey conducted by Burson and Marsteller (2009) based on 500 interviews to both national and European politicians and senior officials from national governments and the European institutions reveal that 80% of the EU decision-makers get their information from ‘industry representation’. A web poll conducted for this study and directed to public affairs company representatives of several firms active in the European Union reveals that

‘furnishing useful information to the decision-makers’ is considered the most effective strategy to represent an interest in the European domain¹⁸.

Secondly, it is beyond any doubt that any informational lobbying approach applied to the European Union must go beyond a reductive single-shot game: reputational costs from a long term perspective and the *ex post* evaluation of the interest groups’ performance are of crucial relevance. To the latter high attention will be reserved under the concept of accountability: any discussion on the principal-agent model cannot prescind from it. Indeed, the novel and dynamic principal-agent model accounting for the relationship between the Commission and interest groups illustrated in the ensuing sections draws on different contributions on the concept of accountability. Studies on this concept as applied by the literature on European modes of governance from a strict principal-agent perspective (e.g., Dehousse, 2008; Williams, 2005) and analyses on the relation between accountability and EU legitimacy (e.g., Fisher, 2004; Harlow, 2002; Arnall and Wincott, 2002) and, again, theorisations from a more ample angle (e.g., Sinclair, 1993; Bovens, 2007) are overviewed in order to arrive at a dynamic and horizontal conceptualisation of accountability. Building on the assumption that “the alignment of accountability and governance” (Fisher, 2004 p. 500) must be the starting point of any attempt to address this topic, accountability is to be posed into the mode of governance where it is at work. Accordingly, various theorisations of informal modes of governance are considered to frame the ‘elite forum-based’ (Coen, 2007b) relationship with its emphasis on reputation and transparency emerged between the Commission and interest groups. Indeed, the analyses of the interaction between national regulators and private interests from a long term perspective (e.g., Willman et al, 2003; Coen, 2005; Coen, 2009) along with the one of delegation of functions in European informal modes of governance (e.g., Sabel and Zeitlin, 2008; Sabel and Cohen, 1997) will contribute to the discussion.

Thirdly, the paramount role of the Commission in the European (business) lobbying system should be at the basis of the analysis. Indeed, empirical research confirms that since the 1980s the Commission has increasingly become the preferred target for business actors against both national venues and the other European institutions (Kohler-Koch and Quittkat, 1999; Coen, 1997; 2007a; 2009)¹⁹. Not by chance, business actors, particularly companies, have more contacts with the Commission than any other interlocutor (CIPI, 2006; Bouwen, 2004; Eising, 2007), as Figure 9 illustrates. Revealing is that European business interests, namely European business associations and individual firms, access the Commission respectively 34 per cent and 43 per cent of the times relegating the EP and the Council to a secondary role (Bouwen, 2004). A proper role for the Commission is to be tailored below: its active role deserves far more attention than the one granted to it by the theories reviewed above. Nevertheless, noteworthy is how the Commission, even though conceived as a passive structure of incentives, influences lobbying practices. Indeed, as aforementioned, interest groups are incentivised to present their interests in a European dress in order to have access to the Commission, which represents an extremely crucial lobbying target, as just noticed. As a consequence, fluid and single issue-based groupings at European level are time after time created to fulfil such a necessity (Coen, 2009; Greenwood, 2011).

¹⁸ Such a web poll has been carried put purposely for this study. A link to this poll was emailed on 10 January 2012 to 178 EU/public affairs company representatives: the contacts had been taken from the ‘180 Company Representations in Brussels’ European Agenda Booklet, 2007. The poll consisted mainly of ordinal scale questions allowing thus for enough variation though without overburdening the cognitive abilities of respondents (Cox, 1980 in Klüver, 2011). Besides, several in-depth open questions were present in order to capture the respondents’ opinions/impressions on the various topics. The results were that roughly 30 contacts resulted to be not up-to-date and the total respondents were only 13. In the text hereafter the findings deriving from such in-depth open questions are illustrated as explorative research paving the way for the proper analysis.

¹⁹ This is illustrated in Figure 1-2-3.

Last but not least, ‘critical resource dependence theories’ supply an inestimable contribution to the analytical part of this study. Indeed, close in spirit to the conceptualisation of the ‘logic of influence’ (Schmitter and Streeck, 1999), this work aims to analyse how the institutional demand influences European lobbying practices. Indeed, the European institutions, particularly the Commission, possess the monopoly over access thus shaping the European lobbying market (Michalowitz, 2004). In other words, the functional division of labour between different lobbying strategies is related to an optimal mix of the lobbying function. Figure 10 shows the various lobbying strategies considered by the author and the tasks they fulfil. This figure represents the findings the scholar extrapolates from a series of qualitative interviews to lobbyists in the European domain. In a similar vein to the ‘theory of access’ (Bouwen, 2002; 2004; Eising, 2007), European associations supply information about the ‘European encompassing interests’: with respect to a functionally differentiated lobbying system their task is to provide representativity. Conversely, in-house lobbyists (i.e., direct lobbying) furnish credibility to private interests, along with other services such as professionalization, as emphasised also by Klüver (2011). The device of correlating different tasks to the various lobbying strategies, with special attention on representativity and credibility, is at the core of the analytical part of this paper. The latter, indeed, tests how the Commission by regulating the access to its expert groups privileges certain strategies against others with the result of shaping the entire interest representation system. Nevertheless, the rationale underpinning such a device employed by Michalowitz (2004) differs from the one utilised below. Indeed, she argues that the functional differentiation occurred in the European lobbying system is associated with the necessity private interests face to balance the logic of influence and the logic of membership. Accordingly, an implicit causal relationship is established between the demand side and the supply side: only after having brought ‘the state’ back in this relationship may become explicit, as already specified.

Figure 10: European Lobbying Strategies and their Functions

	Function
Euro-groups	<ul style="list-style-type: none"> - Representation - Sectoral weight - Interest aggregation - Contact provision
In house lobbyists	<ul style="list-style-type: none"> - Direct lobbying - Professionalization - Image provision - Connection to the Nation State/officials of the same nationality
Political consultants	<ul style="list-style-type: none"> - Professional mediating services - Strategic advice

Source: Michalowitz, 2004. Author’s own compilation.

Furthermore, like Klüver (2011) she focuses also on the relations between private interests (i.e., constituencies) and lobbyists. This work, on its part, concentrates only on the demand side, namely the role of the Commission. Despite acknowledging the necessity of analysing the relationship

between the internal organisation of interest groups (e.g., Klüver, 2011) with particular emphasis on companies' internal structure (e.g., Coen, 1998) and the role of European institutions, being a passive structure of incentives or a policy entrepreneur, this, nevertheless, is outside the scope of this study. The discussion on the supply side, being conceptualised under the label of the 'logic of membership', as in Michalowitz (2004), or 'policy benefits' (Broscheid and Coen, 2003), deserves, indeed, a separate discussion. Besides, before any consideration on the internal organisation of business interest groups it is necessary to understand what really determines their interests and what moves them in the political arena. In this vein, this paper concentrates on the influence exerted by public authority on interest groups' strategies and on the lobbying system as a whole: what Broscheid and Coen (2003) name 'non-policy benefits' and what Michalowitz (2004) term 'logic of influence'. By assuming an active role of the Commission in a principal-agent model, the ensuing parts establish an explicit causal relationship between the demand and the supply side.

THE PRINCIPAL-AGENT MODEL

This part illustrates the literature on the principal-agent model as applied by European studies. Indeed, many scholars explicitly or implicitly employ a principal-agent perspective to account for the European institutional architecture and the dynamics at work amongst European institutions and between them and MSs. Special emphasis is granted to the concept of accountability, which has hitherto been under-theorised by such a scholarship, albeit the fact that "we live in the age of accountability and accountability has a social presence of a new kind" (Fisher, 2004 p. 495). This literature review is functional to the discussion on the principal-agent approach to the European informational lobbying system. Indeed, throughout the illustration of the various principal-agent models presented below the necessity of coupling to informal modes of governance a more dynamic principal-agent model becomes evident. The exposition of the principal-agent approach applied to the European informational lobbying follows. Indeed, some scholars (e.g., Broscheid and Coen, 2003; Coen, 2007a; Coen, 2009) apply a traditional principal-agent model to the interactions between the Commission and interest groups. Nevertheless, in the ensuing sections this paper argues in favour of a more complex and interactive conception of the principal-agent chain and, accordingly, of accountability rather than a static one. In this vein, some contributions on informal modes of governance, both from a regulator-firm perspective (e.g., Willman et al, 2003; Coen, 2005; Coen, 2009) and from innovative theorisations of European governance (e.g., Sabel and Cohen, 1997; Sabel and Zeitlin, 2008), contribute to the discussion.

The Principal-agent Model: European Modes of Governance

Several parameters may be employed for the categorisation of principal-agent models in European studies: for instance, according to the branch of social sciences from where they stem or according to the type of functions delegated (e.g., Dehousse, 2008). Nevertheless, this study argues in favour of the need to pose the discussion on the principal-agent model and, accordingly, accountability within the mode of European governance in which they are at work. Eberlein and Kerwer (2004) categorise EU governance according to the nature of the political decision-making process: whether it is based on preference aggregation or preference transformation. As a consequence, this section classifies the European modes of governance as follows. The form of governance based on

preference aggregation is characterised by a hierarchical structure and it is coupled to a static and strictly problem-solving conception of the principal-agent relation. The informal modes of governance are characterised by preference transformation through deliberative dynamics and it is coupled to a more dynamic and less rational approach to the principal-agent model. The latter are of help for the fine-tuning of the principal-agent approach to the European informational lobbying, especially with their emphasis on an horizontal conceptualisation of accountability. Needless to say, such a black and white division of the European modes of governance and the principal-agent models attached to them is only for the sake of exposition: a wide range of greys is present in reality. This part concludes with the literature on the relations between national regulators and interest groups: it represents, indeed, an indispensable contribution to the principal-agent approach based on the information gathering delegation, especially thanks to its long term perspective.

Formal Modes of Governance

Hierarchy in the European decision-making process is usually associated with the so called Community method, which plays a pivotal role in various crucial policy fields. In fact, the legislation connected with the Single Market and several flanking policies (i.e., cohesion policy, trade policy etc.) is issued through this method (Nugent, 2009). In general, the Community method entails the delegation of competences from the MSs to supra-national institutions, as stated by the ‘conferral principle’²⁰. The delegation of competences under this hierarchic perception of the principal-agent model has played a fundamental role, being at the very core of the European integration process. Many scholars emphasise the strong correlation between this principal-agent relation and the process of European integration. According to Pollack (2003), European integration has been triggered thanks to the loosening of the principal-agent relation coupling MSs to supra-national institutions: the *phenomenon* whereby agents pursue a different political agenda from the principals is labelled by Dehousse (2008) ‘agency drift’. Indeed, the author conceives the process of European integration in function of a continuous struggle between ‘competence-maximiser’ supra-national institutions and MSs. Among others, two conditions whereby a rise in the autonomy of the agent occurs are noteworthy: the distribution of preferences and the decision-making rules. When preferences among principals (i.e., MSs) are diffused and they cannot exert a strong control over agents (i.e., European institutions), the latter enjoy large rooms for *manoeuvre* to deepen and widen European integration. Another author shares the premises of Pollack’s attempt to bridge intergovernmentalism and neo-functionalism (Stone Sweet and Sandholtz, 2001; Wonka and Warntjen, 2004): Moravcsik (1993) with his liberal intergovernmentalism. Indeed, according to this scholar, when negative economic externalities are at stake and interests within MSs are diffused, the principal-agent chain is weakened thus increasing the autonomy of national governments to cooperate at international level. It is worth noting that Moravcsik shifts the principal-agent perspective to the relation between national governments and societal interests. Nevertheless, he identifies several conditions related to the principal-agent model whereby European integration is fostered. Indeed, once the delegation of competences occurs, MSs may only monitor and restrain the activities of European institutions (Pollack, 2003) without a feasible ‘exit’ option (Hirschman, 1970). Indeed, path-dependence dynamics are at work thus rendering the revocation of the delegation so costly to become unviable, as emphasised by historical institutionalists (Checkel,

²⁰ Art. 2 TFEU, OJ C83 of 20 March 2010.

1999). Paradoxically, in hierarchic modes of governance no ‘shadow of hierarchy’ (Héritier and Lehmkuhl, 2008) is at work, because the threat of the revocation of the delegation of competences is not credible. The recursive redefinition of the ‘rules of the game’ between the principal and the agent, considered at the core for the inappropriateness of rigid principal-agent approach for informal modes of governance (Sabel and Zeitlin, 2008), is, indeed, excluded in this context.

The hierarchic mode of governance entails two noteworthy elements with respect to the delegation of functions: the problem-solving orientation of delegation and the fixed interests of the principal and the agent. First, many scholars (e.g., Majone, 1998; Moravcsik, 2002) agree that nowadays majoritarian institutions delegate functions to non-majoritarian bodies in order to circumvent problems faced by complex polities. Accordingly, non-majoritarian institutions may bear the technical expertise of which politicians are lacking. Furthermore, delegation may reduce the costs of the decision-making process and it may also function as a catharsis thus scapegoating bureaucracies (Fiorina, 1982). Nevertheless, Majone (1998;1999) suggests that nowadays the main objective of delegation is to extend the political horizon beyond what has become known as the ‘short-sightedness of politicians’ (Padoa-Schioppa, 2009). The delegation of functions to non-majoritarian bodies which do not need to struggle for periodical elections enhances the feasibility and also the credibility of policy commitments (Majone, 1998): it represents the institutionalisation of responsibility (Williams, 2005). Second, agents and principals are considered as static and unified actors (Dehousse, 2008) and institutions are ‘thin’ in that at most they constrain the behaviours of actors in the long run through path-dependence dynamics (Checkel, 1999; Stone-Sweet and Sandholtz, 2001). Nevertheless, institutions do not affect the actors’ identities and interests.

In a hierarchic principal-agent relation accountability assumes a crucial importance. Indeed, according to several authors (e.g., Majone, 1998; Moravcsik, 2002) European governance does not elicit legitimacy problems as long as the relation between the principals (i.e., MSs) and the agents (i.e., European institutions) is bolstered by a strong accountability (Majone, 1998). Accountability must, indeed, be coupled to the discourse on legitimacy and democracy (Fisher, 2004; Harlow, 2002; Arnall and Wincott, 2002): the setting of standards is a crucial element for assessing accountability and, in turn, legitimacy (Majone, 1998; Moravcsik, 2002). Accountability may be conceived as “a relationship between an actor and a *forum*, in which the actor has an obligation to explain and to justify his or her conduct, the *forum* can pose questions and pass judgement, and the actor may face consequences” (Bovens, 2007, p.450). Accordingly, accountability is a *species* of the *genus* ‘control’ being based on an *ex post* scrutiny (Bovens, 2007; Fisher, 2004): it is the giving of reasons for what one does. Hierarchic modes of governance involve determined forms of accountability according to the literature. The principal-agent relation between MSs and European institutions is based on a strictly political and vertical accountability, utilising Fisher’s (2004) and Bovens’ (2007) parameters. In other words, accountability and delegation pose themselves on the same line though operating in opposite directions: no delegation may be achieved without accountability. Citizens delegate authority to majoritarian institutions, which in turn delegate to accountable bureaucracies. Furthermore, in hierarchic forms of governance the relation principal-agent is based on a vertical accountability (Dehousse, 2008), in that the principal exert influence over the agent: the latter is (politically) bound to render account (Bovens, 2007). In such a situation,

accountability is functional to exert democratic control over non-majoritarian institutions: the accountability chain connects citizenry to non-majoritarian bodies.

Informal Modes of Governance

This section correlates the so called new modes of governance with the principal-agent model. Such ‘new avenues’ (Eberlein and Kerwer, 2004) represent a departure from the Community method and they are usually associated with deliberative decision-making processes, multi-level interactions between public and private actors and a vast range of policy instruments (Sabel and Zeitlin, 2008). First, deliberative policy-making tends to transform preferences rather than merely aggregating them (Habermas, 1996). Actors’ identities and interests are endogenous to the social environment in which they interact (Checkel, 1999) so that social learning and socialisation dynamics are at work. Second, an iterated multilevel interplay between European and national public and private actors occurs. Private actors may self-regulate with or without the supervision of public ones or they may deliberate jointly with public actors (Héritier and Lehmkuhl, 2008). The presence of multiple access points and the lack of proper veto-holders characterise such new modes of governance. Third, the use of soft law or policy guidelines is typical of these decentralised, participatory and deliberative forms of decision-making (Eberlein and Kerwer, 2004).

Some scholars (e.g., Sabel and Zeitlin, 2008) argue that such ‘new forms of informal governance’ (Peters, 2008) are slowly spreading over to all the European policy fields, though others perceive them as more circumscribed. Nonetheless, political scientists almost unanimously identify the Open Method of Coordination (OMC) as a revealing example of informal mode of governance. The OMC represents the quintessence of ‘the third way of governance’ along with the Community method and pure intergovernmentalism (Ekengren and Jacobsson, 2000; Eberlein and Kerwer, 2004). Although the OMC differs substantively across policy fields (Benz, 2007; Caviedes, 2004; Borrás and Jacobsson, 2004), this part explores the common characteristics under the theoretical lenses of the informal modes of governance delineated above. First, the decision-making process typical of the OMC is not based on bargaining, but on discursive dynamics, such as arguing. Furthermore, many scholars (e.g., Hemerijck and Visser, 2003) argue that social learning practices are at work thus triggering cognitive dynamics, such as persuasion in the Habermasian (1998) conception. As a consequence, actors involved may endorse policy paradigms being incentivised by peer pressure and ‘naming and shaming’ *phenomena* (Jacobsson and Vifell, 2003; Sabel and Zeitlin, 2008)²¹. Second, private actors play a pivotal role, both in the defining the policy-agenda and in enforcing legislation jointly with national public authorities. Many academics (see, for instance de la Porte and Nanz, 2004) underline the participatory character of the OMC in the European employment policy, where the European Social Partners are actively involved in the formulation of policy guidelines within the committees. Moreover, they interact with national ministries in formulating the National Action Plans (NAPs). Third, the adoption of guidelines translated into national or regional policies (Eberlein and Kerwer, 2004) occurs through more rigid forms of benchmarking (Eberlein and Kerwer, 2004) or policy learning dynamics (Benz, 2007). The enforcement is based

²¹ For a detailed discussion on the socialisation dynamics at work in the OMC of the European Employment Strategy (EES) with a marked emphasis on the role of peer pressure practices see Vannoni, 2011. The latter, indeed, attempts to clarify the terminology hitherto utilised by the literature to account for cognitive dynamics, such as learning, socialisation, persuasion etc. in the OMC/EES.

on joint indicators leaving wide room for *manoeuvre* to national authorities and it is guaranteed by various forms of social pressure.

Such an informal mode of governance tends to blur the principal-agent line and a static principal-agent approach is usually inadequate. The latter is usually associated with the relation between sectoral governance (i.e., the agent) and territorially bounded democratic government (i.e., the principal) (Héritier and Lehmkuhl, 2008). The problems connected with the principal-agent model in these forms of governance are multifaceted. First of all, the ‘hydra factor’ (Héritier and Lehmkuhl, 2008) is widely diffused, since an institutional mechanism may perform different functions (Sabel and Zeitlin, 2008). Indeed, benchmarking procedures at work in some OMCs may function as a mechanism to assess the efficiency of a policy measure and they may also be an avenue whereby national actors hold their governments accountable (Benz, 2007). Furthermore, the new modes of governance are plagued with the problem of ‘too many hands’ and ‘too many eyes’²², using Bovens’ (2007) terminology (Nicolaidis et al, 2003). The former entails the loss of the ‘logic of responsibility’ (Peters, 2008) in that agents continuously interact in deliberative practices learning from each other and mutating their preferences. As a consequence, principals are not able to determine ‘who does what’. The latter leads to an increasingly difficulty in coordination between principals, especially when principals and agents are at different governance levels (Héritier and Lehmkuhl, 2008; Dehousse). Moreover, when non-Pareto optimal decisions are at stake principals may also have different perspectives or interests thus loosening the principal-agent chain (Héritier and Lehmkuhl, 2008). Accordingly, the capture of the agent on the part of a principal disadvantaging thus its rivals, termed by Dehousse (2008) ‘political drift’, is a real menace. Last but not least, deliberative practices may lead to policy learning so that not only do agents learn from each other, but also principals learn from agents (Nicolaidis et al, 2003) with the paradoxical result of confusing the principals with the agents and viceversa (Thatcher and Stone Sweet, 2002). As a consequence, a strong moral hazard characterises the delegation of functions in such new modes of governance in that the risk of agency loss is particularly high (Héritier and Lehmkuhl, 2008).

As mentioned earlier, the importance of control dynamics, with special emphasis on accountability, is not a trivial issue in a principal-agent approach. How then does territorially bounded democratic government control and hold accountable sectoral governance in this case? Where the delegation line is blurred and multiple principals and agents interact in a fluid governance architecture, it seems impossible to excogitate some feasible control mechanisms on the agents. Indeed, the American literature has always questioned itself on those situations where “no one controls the agency, and yet the agency is under control” (Moe, 1987 p. 295). The literature (e.g., Héritier and Lehmkuhl, 2008) has hitherto emphasised the ‘shadow of hierarchy’, typical of neo-corporatist systems (Sabel and Zeitlin, 2008), as the main control mechanism. Hierarchic modes of governance cast their shadow on informal ones by threatening to intervene if self-regulation is not properly carried out. Even the possibility *per se* is sufficient to accelerate the sectoral decision-making process or to encourage actors to overcome stalemates. For instance, Falkner (2000) and Radulova (2007) detect in the European employment policy the effects of the ‘shadow of hierarchy’, whereby the possibility of a binding measure issued by the Council has pushed the social partners to find agreements even on salient issues (e.g., atypical forms of contracts). Nevertheless, as

²² For a specific discussion on the premises and the effects of the multiplicity of principals on the principal-agent model see Dehousse, 2008.

aforementioned, accountability is a specific form of control being an *ex post* scrutiny (Bovens, 2007). Few scholars focus on accountability in informal modes of governance, though Sabel and Zeitlin (2008) and Bovens (2007) provide a theoretical framework²³.

Sabel and Zeitlin (2008) focus on two characteristics of their form of governance labelled directly deliberative polyarchy (DDP): the autonomy enjoyed by lower units and the recursive and joint redefinition of goals and means. These factors lead to the necessity to fine-tune accountability instruments: compliance with ‘immutable rules’ (i.e., not contractable by parties, in contractual law terminology) established by principals is no longer viable (Sabel and Zeitlin, 2008). Accordingly, the regulatory *locus* shifts from rules to frameworks for creating rules contractable by the parties themselves (i.e., ‘default rules’, in contractual law terminology). Among the various parameters for determining a default rule Sabel and Zeitlin (2008) associate their innovative concept of accountability with the ‘penalty default’ (Ayres and Gertner, 1989; Ayres, 2001). The latter is a rule incentivising at least one party to contract around the default rule: the penalty default is based on what actors do not desire to incentivise them to disclosure information to each other (Ayres and Gertner, 1989). Therefore, accountability is achieved through the creation of a (institutional or legal) framework bolstering peer review between agents (Sabel and Zeitlin, 2008). Principals do not hold agents accountable in a direct manner, though they constrain them to hold each other accountable. Such a new dynamic accountability is not based on rule compliance, but on the explanation for choosing: actors are compelled to explain their choices to the *forum* (Bovens, 2007), thus being subject to peer review. The latter is regulated by agents themselves in that incentivised by what Sabel and Zeitlin (2008) name ‘destabilisation regime’, which is a form of penalty default. “In formulating a penalty default, the rule-maker does not try to approximate the optimum outcome. Rather, it tries to create incentives for the parties to produce a rule that approximates the optimum outcome” (Sabel and Zeitlin, 2008 p.306). The destabilisation regime is different from the shadow of hierarchy: the authors emphasise the draconian consequences of the destabilisation regime with respect to the more acceptable ones of the shadow of hierarchy. Nonetheless, the real difference lies in the fact that destabilisation regimes create incentives not only for self-regulation (as the ‘shadow of hierarchy’ does) but also for the creation of horizontal accountability dynamics. The shadow of hierarchy entails only control mechanisms, but not specifically *ex post* control, namely accountability in Bovens’ (2007) terms, enforced by agents themselves.

After the exposition of the traditional principal-agent approach to the European informational lobbying, the ensuing parts transpose some concepts typical of the DDP to the relationship between the Commission and interest groups. Emphasis is to be granted to the those characteristics of the model designed by Sabel and Zeitlin (2008) which renders it an advancement in the literature on the principal-agent model: the recursive framework revision and the horizontal conception of accountability. The latter, as may be easily deduced, is a consequence of the former: the recursive redefinition of means and ends makes traditional principal-agent models and, accordingly, traditional accountability unfeasible. The paramount power in the hands of the principal deriving from its capacity to redefine the framework rules according to which agents act incentivises the agents themselves to hold each other accountable. The penalty pending on agents, besides, may escalate to the complete exclusion of the guilty from the process. Contractual law scholars underline the role of information asymmetry as the fallacy which penalty default rules aim at overcoming.

²³ Szyszczak, 2002 discusses accountability in the OMC whereas Harlow, 2002 in the Comitology system as a whole. Nevertheless, the two works mentioned in the text supply more comprehensive frameworks which are to be of help below.

Likewise, the peer review dynamics at work in this system bear a fundamental prerequisite: transparency. Indeed, only where transparency amongst agents occurs the latter have the basis on which evaluate and judge each other's action.

The Principal-agent Model: Informal Modes of Governance in the Regulator-Business Relations

The previous part illustrates a dynamic theorisation of the principal-agent model emerged as a necessity to analyse the delegation of functions in domains where the revision of frameworks is recurrent. As a result, the traditional conception of accountability comes to be unviable: only agents can hold each other accountable. The focus shifts, therefore, to peer review dynamics, which can occur only in a transparent system: transparency becomes the *condicio sine qua non* for accountability. Another stream of studies has felt the necessity to overcome a static principal-agent approach in favour of a more dynamic one (Willman et al, 2003; Coen, 2005; Coen, 2009): regulatory economics. The latter concentrates on the delegation of regulatory functions to national regulatory agencies (NRAs) from a comparative perspective. The objective of such a scholarship is to create a model embracing different realities from a long term perspective. The profusion of national regulators in the European utilities markets since the 1980s has followed different national paths from self-regulated access agreements to market specific regulatory authorities (Eberlein, 2000; Coen and Thatcher, 2000). Besides, the differences in the implementation and in the regulatory practices are not trivial (Coen and Héritier, 2005). Starting from these divergences this literature aims at understanding how business-regulator relations evolve and whether they follow a unique path, controlling though for differences in regulatory traditions, political and economic factors etc. (Coen, 2005). This brief literature review is functional to understand the dynamics underpinning the creation of an elite forum based politics between the principal and the agents and furthermore, the long-term trust relationship established between them.

In their analysis of the privatisation of three crucial sectors in the UK, namely train transports, electricity and water distribution, Willman et al (2003) emphasise that despite several differences, such as the level of competition achieved in the three markets, common features in the establishment of the institutional framework may be identified. Amongst the several characteristics in common one is noteworthy: the institutional form chosen for the liberalisation, namely an independent regulator enjoying a high level of discretion in regulating the market (Willman et al, 2003). Indeed, several scholars (e.g., Stern and Holder, 1999; Stern, 1997 in Willman et al, 2003) emphasise that in order to be effective a regulatory framework must be characterised by an independent regulatory agency, which establishes long-term relations with the firms based on transparency and trust. As soon as the relationship between the NRAs and firms evolves regulatory economics based on a principal-agent approach comes to be inappropriate. For instance, Willman et al (2003) suggest that organisational sociology and cooperative game theories may contribute to analyse the reality. The former may be of help in examining the institutional isomorphism occurring amongst firms (Coen and Héritier, 2005). Building on Di Maggio and Powell's (1983) categorisation of the forms of isomorphic pressure, the authors correlate the organisational structure of firms and their external environment. This is close in spirit to the 'critical resource dependence theory' as employed by Klüver (2011), Coen (2009) and Michalowitz (2004), who concentrates on how the 'logic of influence' affects respectively the internal structure of interest groups in general

and firms and the functional differentiation of the lobbying market. The analytical part of this paper develops in a similar vein by uncovering the dynamics whereby the ‘logic of influence’ determines the lobbying practices and dynamics.

The real contribution of this scholarship is, nevertheless, the long term perspective permeating their models. Indeed, they conceive the relationship between firms and regulators as an iterated cooperative game, rather than a single-shot one. Willman et al (2003) and Coen (2005; 2009) identify four phases of the relationship between firms and regulators. From the early phases where regulatory uncertainty reigns and firms are not yet structurally and professionally ready to manage information flows, through a gradual rise in regulatory learning and in trust between NRAs and firms to the so called ‘strategic awareness’ (Coen, 2009). Throughout this process the regulatory system witnesses the creation of an elite forum-based interaction between regulators and firms. Indeed, similarly to the informational lobbying, firms desire access to the decision-making process, whereas NRAs require firms’ cooperation, information and support. In this context, NRAs should, as suggested by Majone (2001), balance ‘input legitimacy’, namely few trusted firms supplying information and support, and ‘output legitimacy’. On top of that, when market competition increases, as in the case of telecommunication sector in the UK (Coen, 2005), so does the competition among firms for the ‘insider status’. The management of such a insider regulatory status is crucial for both firms and the NRA itself. Reputation, goodwill and trust become the money whereby firms assume the ‘insider status’ (Willman et al, 2003). In this context the NRA, strong of its monopoly over access and the availability of several information sources as in informational lobbying approaches (Michalowitz, 2004), establishes the regulatory credentials and possesses the discretion to exclude firms from the system. Noteworthy, how the latter resembles the power enjoyed, for instance, by the Commission within the Florence Electricity Forum and labelled by Sabel and Zeitlin (2008) ‘destabilisation regime’.

Since the dynamics underlying such elite forum-based regulatory system are to be of help in analysing the insider/outsider relationship between the Commission and interest group bolstered by credibility and trust, a practical example urges. The English utilities market has always been associated by the literature (Coen, 2005; Coen, 2009; Coen and Willman, 1998) to a mature regulatory system with respect to the German one, for example, considered in its infancy. In fact, the regulatory system in place, especially in those sectors such as telecommunications and energy, orbits around a single point of contact for firms, namely a single NRA characterised, on its part, by high judicial autonomy, discretion in dealing with the economic actors and transparency (Coen, 2005). This system has led to an exclusive reputation game where firms benefit enormously from their insider status: in this context the cost of the exclusion from this system represents a strong penalty pending on firms. Indeed, in such a reputation game actors become aware of the risks of misinformation (i.e., of babbling in Broscheid and Coen, 2003 terminology) (Coen and Willman, 1998). The reason why firms adapt to such a system varies across the phases of the model: compliance in the early phase is due to the presence of a material threat, whereas in most advanced phases is due to learning and socialisation dynamics (Willman et al, 2003; Coen, 2005). Not only does the NRA may hold the firms accountable for their actions, but some scholars identify also horizontal accountability dynamics. Indeed, the 2000 Utility Bill foresaw the creation of independent consumer councils which exert scrutiny powers on the NRAs (Coen, 2005). This horizontal accountability between economic and non-economic interests is to play a crucial role in the model tailored below.

The Principal-agent Approach and Informal Modes of Governance: What to Learn

The principal-agent model, as applied to informal modes of governance both at the European level and at the national one, reveals to be crucial for a thorough understanding of the delegation of functions in dynamic contexts. In these cases, indeed, the traditional principal-agent approach falls short in embracing the whole range of dynamics at work. As illustrated, the work of Sabel and Zeitlin (2008) emphasise how the recursive framework revision in policy domains such as the regulation of privatised network infrastructures, public health and safety, social solidarity and many others have led to forms of horizontal accountability. The ensuing parts test whether the European lobbying system and, in particular, the Commission expert group system present these prerequisites: a paramount role of the Commission with high discretionary power and the recurrent framework revision. The objective is to focus on horizontal forms of accountability and transparency and how this affects interest representation dynamics and practices. Furthermore, the principal-agent approach to the relationship between national regulators and firms proves to be careful in accounting for the iterative and cooperative game established between them. Indeed, the delegation of information gathering functions to firms and the increasing competition amongst the latter trigger the creation of an insider/outsider system from a long-term perspective. As a result, the principal starts to regulate access to the decision-making process on the basis of reputation credentials: credibility and trustworthiness becomes the key for an insider status. The following parts apply this logic to European lobbying and, as already clarified, to the case study: the influence the demand for credibility on the part of the Commission exerts on the business lobbying dynamics is to be examined.

THE CASE STUDY: THE COMMISSION EXPERT GROUPS

This section applies the novel and dynamic principal-agent model to European lobbying by focusing on a case study: the Commission expert groups. The objective is to correlate the Commission's active role in promoting a given type of interest representation with the developments the interest group population has undergone. Indeed, by regulating the access to its expert groups (i.e., by distributing non-policy benefits in Broscheid and Coen, 2003 terminology) the Commission actively promotes a lobbying system based on European identity-building practices along with transparency, credibility and direct lobbying. After a brief introduction to the role of the expert groups, this paper illustrates how European-identity building represents a requisite of lobbying the Commission, as theorised by the 'theory of access'. In fact, presenting an interest as European grants access to the decision-making process related to the Commission. Besides, the 'deontological approach' promoted by the Commission is put into relation with horizontal accountability dynamics: transparency becomes the *condicio sine qua non* of such peer review practices. Last but not least, the insider/outsider relations promoted by the Commission presuppose a strong emphasis on credibility: a long-term trust based relationship between the insiders and the Commission is at the basis of the elite forum based politics.

The Case Study Selection

The concept of generation of consultation tools, as employed by Quittkat and Finke (2008), is particularly of help. Indeed, although this case study deals with the Commission expert groups and therefore, with the first generation of consultation tools, the analysis cannot prescind from the general approach of the Commission to the concept of participation. The consultation tools range from the consultation of experts, through stakeholders to the public. The latter comprises conferences, workshops and online consultations, which have come predominantly to the fore in the 2000s. Several studies focus on such innovative consultation instruments from different perspectives, such as the intention to explain the factors determining the participation levels in such a type of consultation (e.g., Quittkat and Finke, 2008) or to appraise their functioning. Besides, as aforementioned, Klüver (2009; 2011) utilises the online consultations as a case study in her informational lobbying approach. Nevertheless, being the focus of this study business lobbying in the European Union, online consultations do not represent an optimal case study: according to the vast amount of data collected within the project DEMOCIV the presence of business interests is a third of the presence of civil society organisations (Quittkat and Finke, 2008). It is clear, in fact, that business can (and actually do) exploit more fruitful lobbying venues.

For what concerns stakeholder consultations, two tools are envisaged: policy *fora* and more structured relations with societal actors. Policy *fora* have attracted the attention of several scholars (e.g., Mahoney, 2004; Broscheid and Coen, 2003) given their importance in the European decision-making process. Mahoney (2004) utilises the then 124 Commission Consultative Committees to test whether the Commission through these instruments actively shapes the interest group population. She compares the composition of such committees with the one of the external environment. The findings are revealing, especially in the light of the Commission's rhetoric: economic interests are overrepresented in the Commission committees. As a conclusion, the Commission actively influences the interest group population by regulating the access to such committees. This is close in spirit to the rationale behind the ensuing analytical part. Nevertheless, the latter goes further: not only does it demonstrate that the Commission actively influences the interest group population, but it also uncovers why and how. Broscheid and Coen (2007), on their part, question themselves on the determinants of the creation of such policy *fora*. Building on the aforementioned division between policy and non-policy benefits they hypothesise that policy *fora* represent the way the Commission copes with 'interest overload': the findings verify such a hypothesis. This work does not concentrate on the Commission policy *fora* for two main reasons. First of all, data on the composition of such committees are not easily collectable, especially after the shutdown of the CONECCS: willingly or not, data availability often represents a parameter for the choice of case studies in social sciences. Secondly, Mahoney (2004) represents a well theorised and researched attempt to account for the determinants of the access to such committees: another study on the Commission consultative committees would represent only an update rather than a real advancement in the literature. Again, the presence of an already well structured literature on a topic drives the choice of case studies too.

As a result, this paper argues in favour of a thorough understanding of the determinants of the composition of the Commission expert groups for two main motivations. First of all, at the present state of art this study represents the first analytical attempt to tackle this issue: other studies focus

on the expert groups, though with different analytical purposes, such as explaining the uneven distribution of them across policy domains (e.g., Gornitzka and Sverdrup, 2007; 2008b) or their different configurations (Gornitzka and Sverdrup, 2008a; 2011). Secondly and most importantly, the Commission expert group system represents an optimal case study for European informational business lobbying. In fact, it represents the largest information gathering system in the EU with its 1237 entities against the 270 Comitology committees in 2008 (CEC, 2009)²⁴ and the 162 Council working parties (EIPA, 2010). Besides, it is collocated in one of the most neuralgic though so far black-boxed (Gornitzka and Sverdrup, 2008a) stage of the decision-making process, namely the pre-proposal one. The latter, indeed, represents the *momentum* when the Commission mostly urges timely and reliable information along with support from the various stakeholders. Interest groups, especially business actors, recognise the importance of acting in the early stages of the law-making process (Kriesi et al, 2007). For instance, according to Burson and Marsteller's (2008) survey the wrong timing of action is one of the most frequent sources of poor lobbying practices. Furthermore, the poll conducted for this study reveals that timely action is not only of great relevance for companies while acting in the EU, but it represents also an incentive to establish a company representation office in Brussels. Furthermore, it shows that firms attach to expert groups great importance in the European decision-making process. Last but not least, apart from national officials who represent the majority of the groups' members, representatives from industries and enterprises are present in roughly 30 per cent of the total of the groups thus being evenly represented vis-à-vis non-economic interests (Gornitzka and Sverdrup, 2008a; 2011).

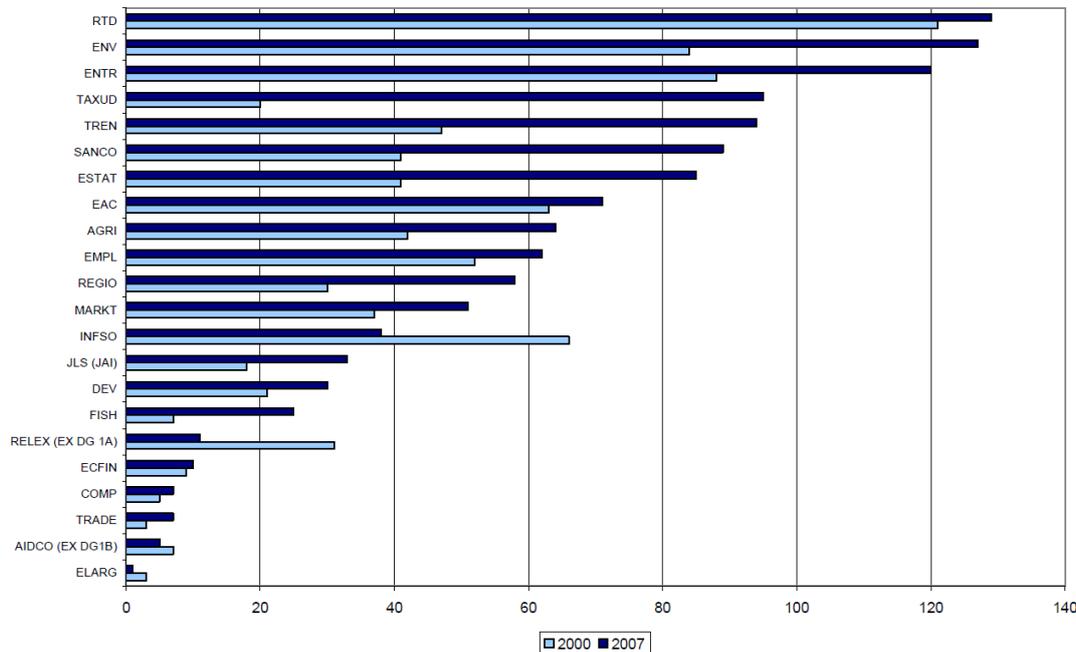
The Commission Expert Groups: an Introduction

The EU has witnessed a constant but slow increase in the number of expert groups since the 2000s: from 537 in 1975 through 602 in 1990 (Wessels, 1998), to 851 in 2000 (Larsson, 2003). Thereafter, the increase has speeded up reaching paces of almost 40 per cent: Gornitzka and Sverdrup (2007) supply a figure of 1237 expert groups in 2007. Figure 11 shows the distribution of expert groups across the various DG in 2000 and 2007. Despite the trend towards more equality, being the median number per Service increased from 19 in 2000 to 27 in 2007, the uneven distribution of such groups is still evident. More than 75 per cent of all the expert groups are related to 10 DGs (Gornitzka and Sverdrup, 2008b). For instance, DG Research, DG Environment and DG Enterprise count more than 70 expert groups each. Such an inequality is due to several reasons. Gornitzka and Sverdrup (2007) positively correlates an higher number of expert groups with the regulatory nature of a policy, with the general level of activity of the EU in a policy domain (and accordingly, the number of interest groups active therein) and with policy fields characterised by 'shared competences'. Noteworthy is that the fact that the number of expert groups is related to the one of interest groups can bear two meanings. Most simply, the two variables are disentangled, namely there is a spurious relationship between these two, and they covary only in that both related to the third variable: the activity of the EU. Conversely, a causal relationship between these two variables signifies that the expert group system is characterised by that *phenomenon* theorised by Broscheid and Coen (2003), namely the conscious use on the part of the Commission of non-policy benefits against the 'interest overload'. Albeit acknowledging that a causal relationship still needs to be

²⁴ A detailed illustration of the distribution of Comitology committees and their functioning is provided in the 'Report of the Commission on the working of Committees during 2008', COM(2009)335.

proved, it is assumed *a fortiori* in the theoretical model employed in this study leaving the burden of proof to future research. Remarkably, the foreshown factors influencing the distribution of expert groups are to be tested in the ensuing parts as control variables.

Figure 11: Expert Groups per DG in 2000 and 2007



Source: Gornitzka and Sverdrup, 2007.

The expert groups are consultative bodies established by the Commission or its services consisting of at least six members meeting more than once (CEC, 2010b). Their role is to advise the Commission in relation to its right of initiative, to the preparation of delegated acts and to the implementation of EU legislation (CEC, 2010b). Nevertheless, they cannot issue binding decisions. Indeed, “they are first and foremost *fora* for discussion and brainstorming, the primary function of which is to provide the Commission with high-level expertise. In addition, gathering expertise from various sources is also a way of gathering the views from different stakeholders” (CEC, 2010b p. 3). As the informational lobbying approach assumes, the exchange of information and support against access is at the basis of the relationship between public authority and private actors. Two different regulation regimes are at work in this domain: the one regulating the collection and use of expertise and the one regulating consultation tools. A clear-cut division does not perfectly mirror reality and the aforementioned concept of generation of consultation tools better renders the idea though a separate discussion is for the sake of exposition. The common background from which these two regulation regimes stem is the well known ‘European Governance: a White Paper’ issued in 2001 (i.e., CEC, 2001). The latter, with the objective of triggering five principles of good governance, namely openness, participation, accountability, effectiveness and coherence, proposed four lines of change. Amongst these proposals for change better involvement played a crucial role: a high role for civil society organisations was envisaged. Nevertheless, the Commission with a doubtful choice of words warned that “with better involvement comes greater responsibility” (CEC, 2001 p. 15). Civil society, in fact, had to follow the principle of good governance, especially with respect to accountability and transparency paving the way for the code of conduct setting the minimum standards for consultation, then comprised in the Communication ‘Towards a Reinforced

Culture of Consultation and Dialogue - General Principles and Minimum Standards for Consultation of Interested Parties by the Commission' (i.e., CEC, 2002a).

In a similar vein, the White Paper foresaw the setting up of guidelines on expert advice. The Communication 'On the Collection and Use of Expertise by the Commission: Principles And Guidelines' (i.e., CEC, 2002b) put into practice such a project. Such an act posed the principles already identified by the White Paper into the framework of the collection and use of expertise, which until then was regulated only by the generic 'precautionary principle', except from health and safety, environment and consumer protection, where expert assessment had already a treaty basis (CEC, 2002b). Thereafter, the Commission in 2005 defined a new set of rules for expert groups repealing the annual authorisation system introduced in the 1980s supplementing thus the White Paper and the two Communications mentioned above (i.e., CEC, 2002a; CEC, 2002b) (CEC, 2010b). Furthermore, the Commission envisaged the creation of a new Register. In 2009 the Commission Secretariat-General (SG) issued an evaluation of the regulatory regime established in 2005: many criticisms were, in fact, raised by civil society especially with regard to the transparency in the selection and composition of such expert groups²⁵. Accordingly, with the 2010 internal working document 'Framework for Commission Expert Groups: Horizontal Rules and Public Register' (i.e., CEC, 2010a) and then with consequential Communication (i.e., CEC, 2010b) the Commission tackled these criticisms. With the aim of standardising and simplifying rules, especially for the establishment and the shutdown of such groups, and enhancing transparency the Commission foresaw the revision of the horizontal rules and the modification of the Register. Apart from the nomenclature of the entities enlisted in the Register, the main novelty was, in fact, the disclosure of the information regarding membership²⁶.

The 2010 Communication (i.e., CEC, 2010b) revised the classification of the membership of the expert groups with the objective of more transparency. Three types of information providers therein are identified by Gornitzka and Sverdrup (2008a): scientific expertise, societal actors and national governments. The rationale underpinning the former is that bureaucracy needs specialised expertise: legitimacy, in fact, derives also from a knowledge-based governance. Conversely, the active role of national governments in expert groups may be framed into a principal-agent logic between MSs and supranational institutions (e.g., Pollack, 2003; Moravcsik, 1993; 2002): as occurs in the Comitology system, expert groups are *fora* where MSs monitor the delegation of function to the Commission (Gornitzka and Sverdrup, 2008a). Societal involvement in the Commission expert groups may be seen with the theoretical lenses of the informational lobbying approach: the interest groups provide information (especially on European encompassing interests, as Bouwen, 2004 theorises) and support in exchange of access. This is the type of membership on which the analytical part concentrates. Figure 12 shows the relative distribution of expert groups according to which type of information provider is represented therein. As may be easily extrapolated, governmental actors are the most represented: they are present in four fifth of the total expert groups. Besides, as already clarified, business interests are active in roughly 30 per cent of the expert groups thus underlining the importance role of economic interests in this system. The configuration of expert groups is

²⁵ The most active watch-dog of the impartiality of such groups has been the organisation Alter-EU (<http://www.alter-eu.org/>). In a series of letters sent to Commissioners involved in this process, such as Kallas, Barroso etc., to the Secretary General of the European Commission and even to the European Ombudsmen in 2008 and 2009 it complaint about the biased representation unbalanced towards business interests. Besides, it drove the attention to the opaque selection of members. All these documents stemmed from the 2008 report 'Secrecy and Corporate Dominance – a study on the composition of European Commission Expert Groups' (Alter-EU, 2008).

²⁶ Notwithstanding, some transparency problems persist in that not all names are released even though no reasons for secrecy exists. Besides, members 'appointed in personal capacity' can in reality hide business interests (Alter-EU, 2008).

associated with the competence of the EU in that policy domain: ‘shared competences’ entail the necessity to cooperate with national authorities (Gornitzka and Sverdrup, 2008a).

Figure 12: Expert Groups and their Membership

	Number of expert groups	% of N (1237)
National Administration	864	69,8
Competent National Authority	422	34,1
Academics/Scientists	412	33,3
Industry/ Enterprise	352	28,5
NGO	207	16,7
Practitioners	157	12,7
Social Partners/ Unions	146	11,8
Regional and Local Administration	100	8,1
Consumers	96	7,8
International Organizations	27	2,2

Source: Gornitzka and Sverdrup, 2008a.

THE POLITICAL DETERMINANTS OF EUROPEAN BUSINESS LOBBYING

This part constructs the theoretical framework where to pose the analysis of the political determinants of European business lobbying. Indeed, starting from the novel principal-agent approach to the European informational lobbying illustrated above it demonstrates how the Commission through its expert group system actively affects lobbying dynamics and practices and, accordingly, the interest group population as a whole. The rationale underlying the relationship between the supply side and the demand side, close in spirit to the ‘critical resource dependence theory’ of Michalowitz (2004), Klüver (2011) and Beyers and Kerremans (2007), is to associate determined functions to lobbying practices and dynamics. For instance, the membership in European associations is associated with the supply of ‘European encompassing interests’ (Bouwen, 2004) and, more generally, to the dynamic capacity of presenting an interest with European clothes. Building on this theoretical assumption, this part illustrates how the expert group system promotes certain lobbying practices and dynamics instead of others. The focus is on those practices and dynamics fostering European identity-building, transparency and credibility as prerequisites to access the expert group system.

The ‘Logic of Access’ and European Identity-Building

The theory of access, as presented by its main proponents (e.g., Bouwen, 2002; 2004; Eising, 2007), clearly demonstrates that the capacity to provide the Commission with ‘European interests’ grants access to its decision-making process. The logic is straight-forward: in an informational lobbying model accounting for the ‘morphology of access’ (Meynaud and Sidjanski, 1971) the various levels of the public authority exchange access for the type of information with which they are mostly concerned. Accordingly, ‘national champions’ providing information on crucial domestic interests access directly the Council of Ministers whereas the other firms cooperate in European business associations to access the Commission (Bouwen, 2004; Eising, 2007). In fact, Gornitzka and Sverdrup (2008a) underline the supply of information on European encompassing interests as the rationale underneath the type of membership of expert groups comprising societal actors. Whereas national representatives’ participation may be seen from a ‘conflict prevention’ perspective thus

emphasising the necessity to cooperate and avoiding stalemate with MSs in such a neuralgic stage of the decision-making process (Gornitzka and Sverdrup, 2011) and experts' one from an output legitimacy point of view (Quittkat and Finke, 2008), societal actors furnish information on European instances and also support against domestic interests. The poll carried out for this study confirms this: representing a European interest is perceived as important. Besides, the poll reveals also that companies feel the necessity to create common grounds for action with other business actors and civil society. Companies, as specified above, create fluid and issue-based coalitions at European level, sometimes also with NGOs engaging thus in the so called 'transversal lobbying' (Greenwood, 2011). This tactic is aimed at dressing an interest with European clothes guaranteeing thus access to the Commission 'insider club'. Accordingly, such a capacity to create European coalitions becomes crucial and, in turn, affects in a non trivial way firms' lobbying strategies. For instance, the creation of fluid coalitions with other actors in Brussels is one of the main motivations for the establishment of a company representation office in the European capital. The previous sections illustrate the high costs of both being member of an European association and establishing a company representation office in Brussels. As a conclusion, the capacity of engaging in European-identity building practices and dynamics determine the access to the Commission expert groups system:

H1: Ceteris paribus, firms engaged in European-identity building likely enjoy more access to the Commission expert group system

Horizontal Accountability and Transparency

The contribution from the theorisation of a dynamic principal-agent model characterised by horizontal accountability in the DDP tailored by Sabel and Zeitlin (2008) is of help to cast a light on the dynamics occurring in the Commission expert groups. As foreshown, the recursive framework revision typical of certain modes of European governance renders the traditional principal-agent models and, accordingly, hierarchic accountability obsolete. Indeed, in a situation where "actors have to learn what problem they are solving, and what solution they are seeking, through the very process of problem solving—then principal-agent relations are impossible" (Sabel and Zeitlin, 2008 p. 304). Accordingly, this context of information asymmetry makes necessary a revision of the traditional accountability dynamics. Horizontal accountability is the only solution: only peers have the knowledge to assess and evaluate the agent's behaviour in this situation. The principal creates what is called 'destabilisation regime' incentivising agents to hold each other accountable under the threat of a penalty: the exclusion from the system.

As already specified, two requirements are necessary for such a system to function properly. First, horizontal accountability dynamics must be bolstered by a transparency permeating the entire system. Second, a predominant position of the principal which allows it to put into practice the penalty in case of defection: agents must be strongly incentivised to control each other. The latter is to be demonstrated in the ensuing part being closely linked to the trust based relationship between the Commission and the 'insider club'. This part illustrates how the instable framework characterising the Commission expert groups necessitates to control agents peer review dynamics,

which, in turn, are sustained by transparent relations. As a conclusion, transparency comes to be a crucial prerequisite for accessing the Commission expert group system.

The Commission expert groups, as seen above, emerged due to the necessity to supply technical expertise to the Commission when dealing with the most disparate range of policy issues. The necessity of regularly updating the European legislation, apart from the 'precautionary principle', enjoys, indeed, also a legal basis in the treaty for some policy domains (CEC, 2002b). Accordingly, given the wide range of issues managed and the technicality of the expertise required, Commission officials have no possibility to evaluate the information received. As a result, only peers have the necessary know-how to assess and evaluate other agents' performance in such an information asymmetry situation. As theorised by Bovens (2007) and Sable and Zeitlin (2008), accountability becomes the justification for someone's action to a forum and no longer compliance to a given set of rules. In fact, as stated by the Commission, "accountability also extends to the experts themselves [...] they should, for example, be prepared to *justify* their advice by explaining the evidence and *reasoning* upon which it is based" (CEC, 2002b p.10 *emphasis added*). Besides, the blurring of the division between expert advice and the decision-making process is a reality in such groups, as recognised by the Commission itself: "it is often unclear who is actually deciding - experts or those with political authority [...] These issues become more acute whenever the Union is required to apply the precautionary principle and play its role in risk assessment and risk management" (CEC, 2002b p. 4).

The mutual learning dynamics occurring between agents and principals makes forms of accountability centered on the comparison between rules and performance unfeasible because performance and rules mutate simultaneously (Sable and Zeitlin, 2008). This fluid and instable framework is worsened by the informality and the temporary nature of the majority of expert groups: a half of them is temporary whereas three fourths are informal (Gornitzka and Sverdrup, 2007). Also this speaks in favour of the unfeasibility of clear and static regulatory frameworks in the Commission expert groups system. In conclusion, only horizontal accountability, based on peer review practices, can function in this context.

Horizontal accountability dynamics are embedded both in the rhetoric surrounding expert groups and in their actual composition. Indeed, the proper balance between societal and economic interests is at the core of the minimum standards for consultation (CEC, 2002a) and the role of the Commission in triggering such an equality of representation is pivotal: "Where a formal or structured consultation body exists, the Commission should take steps to ensure that its composition properly reflects the sector it represents. If this is not the case, the Commission should consider how to ensure that all interests are being taken into account" (CEC, 2002a p. 20). This rhetoric has been followed by practice: mixed, multi-actor expert groups are frequently employed (Gornitzka and Sverdrup, 2008a; 2011). Strong checks and balances are, in fact, present within the expert group system: Gornitzka and Sverdrup (2008a) find a positive and strong correlation between the participation of enterprises and civil society organisations. Such types of expert groups with their 'multi-vocal' and 'multi-level' character are particularly appropriate not only for learning and socialisation dynamics (Gornitzka and Sverdrup, 2011) but also for peer review and horizontal accountability. Indeed, companies import successful practices from other business actors and, especially, from civil society actors according to the poll conducted for this study. On top of that, the pressure for transparent and fair lobbying strategies is perceived as particularly strong when it derives from civil society actors. This is close in spirit to the horizontal accountability dynamics

theorised by Coen (2005) between the consumer councils and firms in the British energy regulatory system.

The importance of transparency in the complex institutional environment of the EU is emphasised by a company representative as the result of the poll (anonymous respondent 2, 2012 *emphasis added*):

I personally think that lobbying practices in Brussels are certainly far more *transparent* and fair than in any other European capital (and than in Washington). By looking at the *fragmented* and *complicated* European policy cycle, it is easy to understand why Brussels lobbying proves institutionalized but very balanced compared to many other cases: in such a *multi-level* and *multi-institutional* scenario, there is no incentive to be unfair, opaque or worse.

References to transparency have proliferated in the Commission's rhetoric, as illustrated earlier. The collection and use of expertise has not been immune to this rhetorical emphasis. From the White Paper on European Governance, which individuates in transparency one of the principles governing the expert advice (CEC, 2002), through the Communication on the consultation of interest parties (CEC, 2002a) to the acts governing expert groups (i.e., CEC, 2002b; CEC, 2010a; 2010b) the focus on transparency has been so marked that "several organisations expressed their concern that under the pretext of transparency the Commission could try to interfere in the internal structure of their organisations" (CEC, 2002a p. 12). Indeed, the last tranche of reforms undergone by the Commission expert groups aimed at enhancing transparency in different ways: the publication of the members of the expert groups, the disclosure of information regarding the activities of the groups and a clearer content of the Register (CEC, 2010b). As specified above, some of these promises have been kept and some have not. Nevertheless, the emphasis granted to transparency in the European interest representation system as a whole and, in particular, in the Commission expert group system has been remarkably strong.

Unstable and fluid decision-making frameworks render obsolete the traditional principal-agent model and its vertical accountability. In fact, only agents themselves are able to hold each other accountable: peer review comes to be the only viable solution to control agents. Such a self-regulation amongst agents promoted by the principal occurs only when two requisites are satisfied: transparency and a 'destabilisation regime'. The latter is to be dealt with in the next part, whereas transparency has been proved to be crucial in bolstering horizontal accountability in this section. The poll undertaken for this study reveals that firms attach great relevance to being transparent when acting in the European domain: transparent lobbying dynamics and practices play a crucial role. Accordingly, it is hypothesised that transparency represent a prerequisite for access to the Commission expert groups:

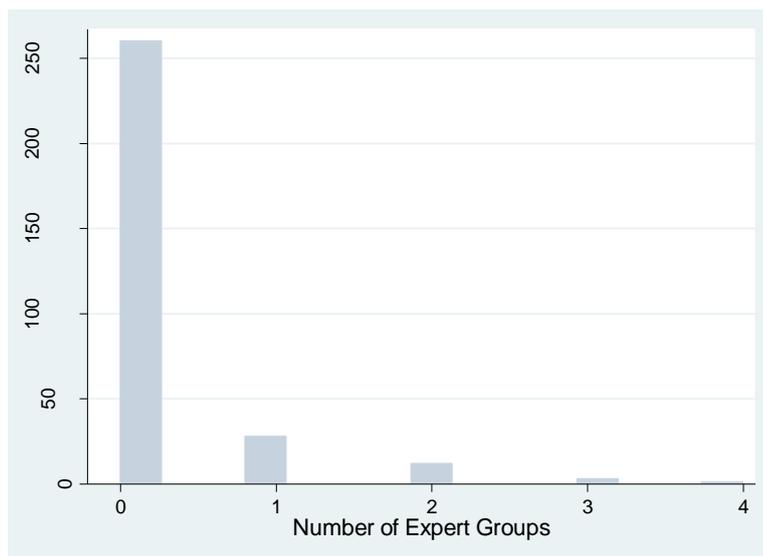
H2: Ceteris paribus, firms engaged in transparent practices likely enjoy more access to the Commission expert group system

'Elite Forum Based' Politics and Credibility

This part correlates the capacity of a firm to provide a credible and trustworthy image of itself with the access to the Commission expert groups. Drawing on the theorisation of informal modes of governance in the business-regulator relationship, the creation of an 'insider club' by the Commission strong of its powerful position as a conscious tactic to tackle the 'interest overload' has, in turn, led to a proper destabilisation regime in the 'insider club' based on long-term trust based relations between the Commission and interest groups. Accordingly, credibility is the 'political money' in the Commission expert group system: it grants access. This part develops as follows. First, the 'interest overload' is illustrated demonstrating thus the emergence of an insider/outsider relationship related to the Commission expert groups. Second, the paramount role of the Commission in such a principal-agent relationship is underlined thus theorising it as a policy and politics entrepreneur. Third, the dynamics occurring therein are analysed as a destabilisation regime hypothesising thus credibility and trust as prerequisites for the access to the Commission expert group system.

Gornitzka and Sverdrup (2007; 2008b) correlate the number of interest groups active in a policy domain with the number of expert groups present therein. As already clarified, no causal relationship is demonstrated though being assumed *a fortiori* in this paper. Close in spirit to what Mahoney (2004) implicitly recognises when analysing the Commission Consultative Committees and what Broscheid and Coen (2003; 2007) explicitly uncover with respect to policy *fora* in general, an 'interest overload' is at the basis of the division between outsiders and insiders in the relation with the Commission. An increase in the competition among interest groups, as seen above, increases the risk of misinformation and free-riding being policy benefits indivisible goods (Broscheid and Coen, 2007). Accordingly, from a principal-agent perspective, the Commission utilises the non-policy benefits to maintain the trade-off between informational and legitimacy needs (Broscheid and Coen, 2007). Non-policy benefits (i.e., access to the Commission expert groups in this case), indeed, as divisible goods, can be easily regulated by the Commission to obtain what it desires. The discretion of the Commission in regulating the creation of such groups and the access to them is of crucial relevance and it is to be duly deepened in the ensuing paragraphs. This one, on its part, concentrates on how the interest overload and the consequential use of expert groups (i.e., non-policy benefits) has triggered the emergence of a division between insiders and outsiders. The findings of the research undertaken for this study speak volume in this regard: the distribution of expert groups' seats to companies active in the European domain is markedly uneven, as illustrated by Figure 13²⁷. As may be seen, the vast majority of firms politically active in the European Union is not represented in the Commission expert groups: only 44 firms out of a sample of 303 (i.e., almost 15 per cent) is present in at least an expert group.

²⁷ Data and findings deriving from the research carried out for this study are thoroughly illustrated and explained below. For a detailed explanation of the sources and the methodology of this graph see the section 'Data and Measurement'.

Figure 13: Distribution of Seats in the Commission Expert Groups

Source: Author's own calculations and compilation.

The creation of an insider/outsider mode of interaction between the Commission and interest groups is associated by the literature to the role of the Commission as policy entrepreneur: both the study conducted by Mahoney (2004) and Broscheid and Coen (2007) confirm this assumption. Indeed, as already clarified, the shift from an *inter pares* exchange of goods to a proper principal-agent relationship presupposes an active role of the Commission in affecting and shaping lobbying dynamics and practices. The high discretion enjoyed by the Commission in the establishment and in the composition of the Commission expert groups is set down by the acts governing them. Indeed, since their inception the Commission has possessed total discretion over both their composition and their creation (Gornitzka and Sverdrup, 2007). The setting up of an expert group occurs through a legislative act issued by the Commission, usually a decision, but in the majority of cases (i.e., two thirds) expert groups are informal (Gornitzka and Sverdrup, 2007) thus requiring only the permission of the Commission SG. The high room for manoeuvre of the Commission in regulating such a system has sensitively increased in the last years. With the objective of simplifying rules, the procedures to establish, change or dissolve a group have been changed in favour of a total control of the Commission. Indeed, the Communication on the Framework for the Commission Expert Groups (i.e., CEC, 2010a p.4) emphasises that “a request by a Directorate-General to create, change or dissolve a group will be deemed to be approved unless the SG raises an objection within five working days”. The shift towards a system based on ‘consent by silence’ represents a substantial rise in the Commission’s discretion. Furthermore, in line with the new wave of budgetary decentralisation trend, the task to control the expenditure of the expert groups’ work is delegated to the competent DG (CEC, 2010a). Last but not least, the procedure regulating the registration of expert groups has been furthered slimmed (CEC, 2010a). As a conclusion, the power exerted by the Commission on expert groups is paramount. On top of that, the control exerted on such groups is furthered by the complete capturing of an expert group on the part of a DG. Tight relations emerge between an expert group and the competent DG: Gornitzka and Sverdrup (2007) demonstrate that four fifths of the expert groups have a single DG ownership.

This paragraph copes with the effects of such a power enjoyed by the Commission on the dynamics occurring within the expert groups system. As illustrated above, a destabilisation regime is in place

where the penalty for not properly carrying out the delegation of function is the exclusion from the system (Sabel and Zeitlin, 2008). Despite acknowledging the appropriateness of relying on anecdotal evidence in this case, the secrecy which would surround the exclusion of an interest group from the ‘insider club’ does not allow this analytical device. Nonetheless, the total discretion enjoyed by the Commission and, in particular, by the relevant DG in selecting the participants in the expert groups is clearly set out by the rule 9 of the horizontal rules annexed to the Communication regulating this system (i.e., CEC, 2010b). More importantly, the Commission possesses the power to exclude a member temporarily or permanently from its expert group: article 11 of the Rules of Procedure (CEC, 2010a) is revealing in this regard. The poll conducted for this study clearly reveals that in general terms companies while acting in the European domain feel the pressure from the Commission. Besides, company representatives perceive as tangible the risk of exclusion from the expert group system and this risk turns into an incentive for fair lobbying practices.

The creation of an ‘insider club’ and the emergence of a destabilisation regime therein has triggered the establishment of long term trust based relations between the Commission and interest groups. Without necessarily posing such a relationship into the evolutionary model foreseen by Willman et al (2003) and Coen (2005), the contribution of such a literature is of crucial relevance for uncovering the dynamics occurring within the Commission expert group system. As theorised by such authors, a rise in market competition leads to an increase in the competition for the insider status (Coen, 2005) and, accordingly, the regulator strong of its high discretionary power impose a reputation-based game within the insider club. Reputation credentials become thus indispensable for obtaining and maintaining the insider status. This trust based system is bolstered by the destabilisation regime illustrated above: the penalty pending on agents incentivises them to adapt to the rules of the game. Credibility comes to be a prerequisite for participating to the insider club. These dynamics occur also in the Commission expert group system, where long term credibility based relations have emerged. As emphasised by a respondent to the aforementioned poll when questioned about the type of influence the Commission exerts on the members of the expert groups: “*Credibility of people involved is key in the short as well as long term*” (anonymous respondent 3, 2012, *emphasis added*). As a conclusion, a correlation between credibility and access to the expert groups is hypothesised:

H3: Ceteris paribus, firms engaged in credibility oriented practices likely enjoy more access to the Commission expert group system

DATA AND MEASUREMENT

This part develops as follows. First of all, a presentation of the data set utilised along with the modifications made is supplied. The motivations for choosing such a database and the rationale underpinning the modifications are explained in detail. Secondly, the identification and the operationalization of the variables follow. Since this represents the first attempt to frame the Commission expert groups into an informational lobbying system and given the freshness of the data gathered it is worth illustrating the findings thoroughly. The operationalization of the hypotheses into explanatory and dependent variables follows the same order according to which the

hypotheses are formulated, for the sake of exposition. The ensuing section, on its part, copes with the proper analysis of the hypothesised relationships between variables.

The Data Set

The database utilised in this study builds on the one constructed by Wonka et al (2010)²⁸. The motivation for choosing such a database is manifold. Indeed, it represents one of the few methodologically reliable, up to date and publicly available attempts to measure the interest group population active in the European Union as a whole. The database contains several variables, some of which are to be utilised in the analytical part of this paper though the majority are to be shoved aside. The variables already present are illustrated in detail in the codebook attached by the authors²⁹. Some modifications to the Wonka et al's (2010) database have been made in order to render it appropriate for the aim of this analysis. Firstly, only the value 'corporations' of the variable 'organisation type' has been preserved. Indeed, despite this has sensitively reduced the sample (from 3700 to 493), this modification is necessary to maintain the focus of this study on business lobbying dynamics. The analysis, indeed, copes with the behaviour of firms in the European political arena: the objective is to uncover the political determinants of the European business lobbying. Secondly, data have been adjusted for double-counting, which plagues this data set, as underlined above. In fact, both the headquarters of firms and their liaison offices are counted in several cases: for instance, this is the case of Airbus. In order to circumvent such a fallacy a thorough examination of the entire dataset has been carried out and the double-counted observations have been deleted. This necessary modification has, nonetheless, further reduced the sample: 304 observations remain. Nevertheless, this represents a sufficient number to proceed with the analysis for two reasons other than the general practice in social sciences: the amount of variables for each observation along with their in-depth character and the presence of studies relying on a similar amount of observations. Besides, the variable accounting for the country of origin of firms has not been taken into consideration for a modification. Indeed, for non-European corporations the European branches of such corporations were enlisted in the original database³⁰ and the MSs where the European branches have seat resulted therein. All the firms of the sample resulted already as 'European', meaning that they have the headquarters or a branch in a European MS. All the remaining variables have been put aside given that non germane to the analysis undertaken below and thus useless.

The result of such modifications is a sample of 304 firms with either the headquarters or the European branch in various European MSs and active in the European lobbying system in that the observations for the construction of the database were originally collected by the actors through a cross-checking among different sources denoting at least a minimum level of activity in the European domain: the CONECCS, the EP register and the Landmark directories (Wonka et al, 2010). To these observations the values of the variables operationalised from the hypotheses formulated above have been associated. The result is a completely new database, which merits a

²⁸ Publicly downloadable at <http://www.bigsss-bremen.de/user/awonka/awonka-data/> [Accessed 21 March 2011].

²⁹ *Ibid.*

³⁰ The fact that European branches and not the headquarters of non-European firms were enlisted is not surprising. It should be kept in mind, indeed, that the logic underlying the Wonka et al's (2010) database is to list the interest groups somehow active in the European Union. Accordingly, European branches and not the headquarters are active in the European market and thus in the European interest representation system.

descriptive overview given the freshness of the data contained therein. The purpose of the ensuing paragraphs is exactly this: hypotheses are operationalised into variables and the latter, in turn, are measured with respect to the various observations. Then, data are illustrated before proceeding to the proper analysis.

The Dependent Variable

The dependent variable of the analysis is illustrated above in Figure 12. Indeed, the objective of the analysis is to correlate the access to the Commission expert groups with determined business lobbying practices and dynamics. The access to such a system is easily operationalizable with the seats a firm holds in the expert groups, in line with similar works (e.g., Mahoney, 2004). Through a desk research undertaken on the Register of the Commission Expert Groups and other Similar Entities throughout January 2012 data were gathered. The method employed was based on the cross-checking between the Register and the dataset. The scope of the research was circumscribed according to the type of membership: only those expert groups comprising business interests (i.e., corporations, associations and trade unions) were considered. The rationale being twofold. First, it represented a way to facilitate the cross-checking without bearing risks of exclusion. Second, these expert groups characterised by these memberships are the very focus of our analysis. Indeed, as specified above, this study is concerned with those expert groups representing societal interests rather than experts or national officials (Gornitzka and Sverdrup, 2008a). As a result, 197 expert groups were identified. Then, the list of the participants to such groups was extrapolated from the Register and cross-checked with the observations in the dataset. The result was that 44 firms revealed to hold at least one seat, of which 28 hold one seat, 12 two seats, three hold three seats and only one firm, namely the Volvo Group, holds four seats. As may be easily seen in Figure 12, this variable (labelled ‘expert groups’) is extremely skewed towards zero, given that the majority of firms do not hold seats. Besides, only very few of them hold more than one seat. Accordingly, two strategies are identified to cope with such a variable: either considering it as a dichotomous variable or utilising a regression model capable of keeping into consideration the particular nature of such a variable. Both of these strategies are employed below and the methodology underpinning them is thoroughly illustrated³¹.

European Identity-Building

As seen above, representing a European interest is crucial when dealing with the Commission: European identity building is a prerequisite for the access to its ‘insider club’. Indeed, Michalowitz (2004) underlines how European associations are functional to representativity and the theory of access (e.g., Bouwen, 2002; 2004; Eising, 2007) associates European business associations with the provision of European encompassing interests. Accordingly, the capacity of engaging in fluid and issue-based coalitions in order to dress their interests with European clothes is of primary importance for firms active in the European lobbying system. European identity-building is operationalised into the number of European associations in which a firm directly participates. Two elements are noteworthy regarding this operational definition: the European character of the associations and the direct membership. Indeed, only associations clearly labelled as ‘European’

³¹ Dependent on the regression models employed these two strategies may account for different *phenomena*: see note 36.

were considered thus putting aside those regional or global: for instance, the membership of the Coca-Cola Company in the World Federation of Advertisers was not included. Besides, only those European associations in which the firm considered is a direct member were counted. Again, the Coca-Cola Company is a revealing example: the fact that it is member of the EU Platform for Action on Physical Activity, Diet and Health through the Union of European Soft Drinks Associations (UNESDA) is deemed not relevant.

The desk research was undertaken on the Joint Transparency Register for those firms enrolled therein: the entry 'Networking' lists the groupings in which the firm is active (the name of this variable is, indeed, 'networking'). For those firms not enrolled in the JTR several research devices were carried out: from directly browsing their official websites to other indirect methods³². It is beyond any doubt that some missing data plague the measurement of this variable. Nonetheless, the highest level of accuracy has been targeted and, where missing, data are missing randomly thus not biasing the results of the analysis. The findings are extremely interesting: European identity building is a practice widespread all over the firms active in the European domain. Indeed, the average number of European associations in which firms are member is four, though some large corporations, such as Siemens (34), Procter and Gamble (25), Microsoft (23), Danone (22), Cargill and GE (21), are member of more than 20 European associations.

Transparency

In general terms, transparency has increasingly gained more and more attention in the European lobbying system and the Commission has assumed the role of promoter of transparent practices in interest representation. As illustrated, Commission expert groups have not been immune to such a trend. In fact, transparency bolsters horizontal accountability in such a system: transparency oriented practices have become a prerequisite for the access to the 'insider club'. The capacity of a firm to engage in transparency oriented practices has been associated to two operational definitions. The first one (labelled 'JTR') is represented by a dummy variable measuring whether the firm is enrolled or not in the JTR³³. The importance of such a new register is illustrated above and according to the poll conducted for this study firms attach a great sense of novelty to it. Besides, albeit the JTR has softened the entry criteria with respect to the CONECCS, it has focused on the 'transparency weapon' requiring extensive information to registrants: the emphasis on the provision of public information has markedly risen (Greenwood and de Castro Asarta, 2011). On top of that, the introduction of the code of conduct plays a pivotal role in bolstering peer review dynamics, as underlined by Greenwood and de Castro Asarta (2011): it stipulates the responsibility for the accuracy of the information inserted in the Register. The COMECE (2011 in Greenwood and de Castro Asarta, 2011 p. 5) in a newsletter renders this idea: "The main improvement resides in the name of the new Register. A name hinging on the magic word 'transparency' refers to the main goal of the instrument, while at the same time creating a neutral and inclusive enough registration setting

³² As an *extrema ratio* the device which revealed more fruitful was to 'google' the firm along with the string 'European association': not elegant, but rather productive.

³³ A caveat is needed. Indeed, the scrupulous reader should raise doubts on the employability of this variable being the Wonka et al's (2010) database constructed also utilising as source the CONECCS. The latter is the predecessor of the JTR and it is beyond any doubt that some problems might arise biasing thus the results: at least, the vast majority of the observations if not all would result enrolled in the JTR. This problem does not arise for two reasons. First of all, the passage from the CONECCS and the JTR was not automatic: in the end they are two different entities. Secondly and most importantly, the Wonka et al (2010) relied only in a very small part on the CONECCS in constructing the database.

for any organisation that would enter it [...]”. The research in this case was rather straight-forward: throughout January 2012 the observations in the database were searched one by one in the JTR search engine. The values of this variable proved to be rather well distributed across observation: 142 firms were found enrolled in the JTR.

The second operational definition is a cardinal variable measuring in how many codes of conduct a firm is registered. The logic underlying such an operationalization is similar to the one underpinning the variable JTR (indeed, the JTR is counted also in this variable as one of the various codes of conduct a firm may be enrolled in). Nevertheless, this variable (labelled ‘code of conduct’) emphasises also the importance of peer review dynamics within groupings and within the organisational structure of the corporation itself³⁴. Indeed, the aforementioned poll indicates that in following transparent and fair lobbying practices a firm perceives as strong the influence exerted within associations, groups etc. For instance, the Deutsch Post and DHL are enrolled in the SEAP code of conduct. Besides, the importance of the constraints related to firms’ internal arrangement is emphasised by a company representative (anonymous respondent 4, 2012) in the poll carried out:

Fair and transparent representation is an obligation that comes, in most cases, from Company/Organization internal policies. The employees are bound to their employers by a contract; therefore, the strongest incentive to be transparent - for what concerns my experience - comes from the rules set out by my Company (taking into account also EU rules & practices). These rules, by the way, are somehow more restrictive than those outlined by the EP and the EC.

Not by chance, large corporations such as Bayern and Danone have internal codes of conduct binding their public affairs representatives. The research was carried out in January 2012 on the JTR and on various websites. Indeed, the JTR at the entry ‘code of conduct’ reports the codes of conduct a firm declares to be bound by. For the firms not enrolled in the JTR a thorough research was carried out in the official website of each observation, usually spending more attention on the documents therein describing ‘corporate governance’. Besides, the websites of the SEAP and the EPACA were searched investigating whether firms in the database were members. The finding has been that, apart from extreme cases such as the Nike Corporation bound by four codes of conduct (i.e., FCPA, UK Bribery Act and Nike INC.’s Ethics Code), this variable does not vary so much with respect to the JTR variable, being a very small portion enrolled in codes of conduct other than the one attached to the JTR. Accordingly, despite helpful for the sake of exposition, the variable ‘code of conduct’ is not employable in the analysis.

Credibility

Credibility is the ‘political money’ for acquiring and preserving the insider status: reputational credentials delivered by the watchdog of the ‘insider club’ are of crucial importance. Indeed, credibility oriented lobbying practices and dynamics are hypothesised to be correlated with the access to the Commission expert group system. Differently from the other hypotheses, the operationalization of ‘credibility’ bears many difficulties given its abstract nature and the subjective

³⁴ Examples of the deontological approach to lobbying regulation are the internal codes of conduct established by the European Public Affairs Consultancies’ Association (EPACA) and the Society of European Affairs Professionals (SEAP) in the last years.

meaning actors attach to it. Nevertheless, the critical resource dependence theory of Michalowitz (2004) is of help in this regard: she functionally associates in-house lobbyists, namely direct lobbying practices, to credibility as a consequence of her research. Accordingly, the operational definition of credibility utilised in this analysis draws on this finding. This was also confirmed by a company representative when questioned about the added value of a Brussels office with respect to other forms of interest representation in the poll conducted for this work: “Close monitoring of policy developments and intelligence [intelligence] gathering in due time cannot be delegated. It depends on a network of *trustful relations* with key stakeholders, which in turn requires a *permanent presence*” (anonymous respondent 5, 2010 *emphasis added*). Besides, Bernhagen and Bräuninger (2005) in their ‘American’ informational lobbying model imply a relationship between the credibility of a lobbying action and its intensity (or better, its cost). Albeit the establishment of a direct association between credibility and costs leaves some doubts, generally speaking a higher involvement denotes that the salience of the interest at stake is elevated but also a higher exposure to the lobbying system on the part of the firm. Direct lobbying, as a consequence, is associated to credible oriented lobbying practices.

Two operational definitions were available with the possibility of merging them: whether a firm has an EU representation office and whether it is accredited to the EP domains. The latter has been shoved aside because Wonka et al (2010) relied extensively on the EP register as a source for the building of their database. Besides, information on the accreditation to the EP are now supplied in the JTR: this would have created problems of collinearity with the variable JTR. As a result, only the EU representation office has been employed. The measurement of such an indicator developed as followed. Both the representation offices in Brussels and in the headquarters were considered thus partially controlling for the resource of a firm. Indeed, whereas direct lobbying (properly measured) should not be associated with the resource of a firm, the establishment of a Brussels office is. Accordingly, taking into consideration also the EU representation offices in the headquarters of the firm allows to control for the resource of a firm, being a far less costly lobbying strategy. This strategy bears a backfire: considering at the same level Brussels public affairs offices and those in the headquarters does not depict a fair picture of reality. Nevertheless, the aim was to obtain a minimum threshold of direct involvement in the European domain and thus such a drawback was considered affordable.

The research was undertaken using four sources. First of all, some data were already present in the Wonka et al’s (2010) database: the company representation offices were, indeed, counted along with the headquarters. The deletion of such a double-counting, illustrated above, was accompanied by the detection of those firms holding a company representation office. Second, whether a firm has a European public affairs office has been checked also in the various EA booklets: the one on company representations in Brussels (EA, 2007); the one on IT and telecommunication associations, companies and institutions (EA, 2008); the one on energy associations, companies, consultancies and institutions (EA, 2006); the one on transport associations, companies and institutions (EA, 2008). Third, the JTR, which furnishes information on whether the firm has a company representation office, was examined. Fourth, the official websites of the firms present in the database were also included in the research. The findings has been transposed into the variable labelled ‘EU office’, which resulted to be rather well distributed from an analytical perspective: 179 firms have a EU affairs office either in its headquarters or in Brussels. Noteworthy is that, at first glance the size of the firm does not influence so much this variable, as predicted above. Needless to

say, multinational corporations such as GE, Exxon, Gaz de France, and Apple, have such offices. Nevertheless, firms as large as the latter, such as Bridgestone and Procter and Gamble, do not bear this characteristic. On top of that, relatively small and unknown firms, such as Coloplast, Datev and the Polskie Koleje Panstwowe (i.e., the company controlling the Polish railway system) have it.

Control Variables

Other factors than the ones hypothesised above may affect the access of a firm to the Commission expert group system: these have been operationalised into control variables. First of all, it is worth examining those factors influencing the distribution of expert groups. For instance, as demonstrated by Gornitzka and Sverdrup (2007; 2008b) expert groups are more frequent in regulatory policies, although the authors themselves acknowledge the difficulties in categorising policies. This fact may bias the analysis in the following way: *ceteris paribus*, an interest group active in a regulatory policy domain has more possibility to access the expert groups than one active in a (re)distributive policy domain simply because in the former more expert groups are present. Accordingly, it may be assumed that the policy area of action may affect whether a firm has access to the expert groups. The research has been undertaken in January 2012 by checking in the JTR's entry 'Fields of interest for e-mail alerts on consultations and roadmaps' and 'Activities'. For those firms not enrolled, the official websites have been examined. Albeit determining in which policy a firm is more active is rather difficult, findings show that almost all of them are involved in regulatory policies: health, agriculture, transport, energy etc. On top of that, even though the primary focus may vary, there are common areas of interest among firms, such as competition or employment and social affairs. The foreshown poll confirms this. A respondent emphasised the complex *iter* behind the decision of the targets: "an EU office needs to make internal position development in close coordination with its business (innovation, sustainability, safety.... policies). This [implies] being part of the company management committees." (anonymous respondent 6, 2012). Furthermore, the 44 expert groups resulting from the research described above are not placed in those policy areas identified by Gornitzka and Sverdrup (2007; 2008b) as the most populous of expert groups (see Figure 11). The majority of them are, indeed, in the energy sector, along with the transport and the communication one. As a conclusion, while the policy sector of action may be a determinant of the access to expert groups in the case of interest groups, when dealing with firms this element can be put aside.

Other factors taken into consideration have been the organisational age of the firm, the country of origin and the Commission funding. Mahoney (2004) finds a positive correlation between the organisational age of interest groups and their access to the Commission Consultative Committees. She, indeed, operationalises the credibility of an interest group into its organisational age. While when dealing with interest groups in general this strategy is of help, this study argues that with firms it does not function. Indeed, the organisational structure itself of interest groups (and thus its age) is directly connected with interest representation whereas the one of firms is not: the objective of firms is to produce and/or trade goods and/or services. Future research should concentrate on the age of the company representation office, which, for instance, is more germane to this kind of analysis. Besides, direct lobbying, as operationalised above, is a more reliable indicator of credibility oriented lobbying practices. Nonetheless, instead of an indicator of credibility, the age of firms is employed as a control variable (labelled 'organisational age').

Also whether a firm (or its European branch) is based in a new or old MS is considered. The rationale being manifold, among which the various degree of adaptation to the European market and the European interest representation system and the suspect that expert groups' composition is biased towards an overrepresentation of interests groups from the old MSs. The country of origin was already present in the original database: the values corresponding to those MSs part of the EU only since the 2004 have been transformed into the value 0 of the variable 'old MS'. To the remainants the value 1 was associated. Nonetheless, it should be noted the high disproportion in the sample with respect to this variable: 299 observations out of 304 have a value 1, namely the vast majority of the firms in the dataset are based in old MSs. The employability of this variable with such a low variation is troublesome and it is to be thoroughly discussed below. The other control variable measures whether a firm is a recipient of Commission funds or not. The logic of the inclusion of such a dummy variable (labelled 'Commission funding') is that the Commission's 'insider club' may be extended also to its funding. It has been shown how the Commission, despite allocating more funding to societal interests instead of the economic ones, creates a division between outsiders and insiders in the interest group population through this practice. Indeed, "differential funding of interest groups suggests a conscious attempt to manipulate the composition of the interest group environment" (Mahoney, 2004 p. 446) and this paper demonstrates how similar dynamics are at place as a consequence of the discretionary distribution of seats in the Commission expert groups. The hypothesis that these two mechanisms are connected within a broader 'insider club' of interest groups is reasonable. Data on the Commission funding were available in the entry of the JTR labelled 'Financial data'. The latter presents, indeed, a sub-entry termed 'Amount and source of funding received from the EU institutions in financial year n-1 of registration'. Yet, for those actors not listed in the Register, no possibility of gathering such data was present. Accordingly, this variable had to be shoved aside in order to avoid the risk of collinearity with the variable JTR. Figure 14 illustrates the characteristics of the variables hitherto defined.

Figure 14: Dependent Variables, Explanatory Variables and Control Variables

Variable	Obs	Mean	Std. Dev.	Min	Max
<i>Dependent variables</i>					
Expert Groups (cardinal)	304	.2138158	.5889577	0	4
Expert Groups (dichotomous)	304	.1447368	.3524154	0	1
<i>Explanatory variables</i>					
Networking	304	4.131579	4.827977	0	34
JTR	304	.4671053	.4997394	0	1
EU Office	304	.5888158	.4928598	0	1
<i>Control Variables</i>					
Organisational Age	304	66.81579	62.85243	3	496
Old MS	304	.9835526	.127398	0	1

Source: Author's own calculations and compilation.

ANALYSIS

As Figure 14 illustrates, two dependent variables have been operationalised: the first one is a (rather atypical) cardinal variable and the second one is dichotomous variable. The first part of this section copes with the dichotomous one leaving the analysis of the cardinal one to the ensuing part. The choice to operationalise the number of seats in expert groups held by the firms in the database into a dichotomous variable derives from how the cardinal variable behaves, as illustrated above. Indeed, not only does an over-presence of zero values occur, but there are also very few values two, three and four (see Figure 12). Accordingly, collapsing the latter into the value one, standing for the ownership of at least one seat, should not bias findings and, besides, facilitates the analysis. A variable coding for qualitative and dichotomous outcomes results. The best regression models to deal with these types of variables are the logit and the probit ones. No choice between these two models on theoretical grounds is possible (Greene, 2000): the difference lies in the assumed distribution of the standard errors (Vasisht, 2007; Borooah, 2002). Albeit Mahoney (2004) chooses the logit method in analysing an almost identical *phenomenon*³⁵ (in another domain though), both of them have been tested. The result has been that the logit method provides a model with a goodness of fit higher than the probit one: Figure 15 shows the estimates derived from the former.

Figure 15 illustrates the estimates calculated with a logit regression model. Noteworthy is that the variable ‘old MS’ has not been employed given its extremely low variation. Two specifications are needed. Indeed, the problems of endogeneity and multi-collinearity deserve a thorough examination. Indeed, some concerns about endogeneity may arise. Nevertheless, the theoretical part clearly demonstrates the assumptions according to which the degree of access to the expert group system is a consequence of the lobbying dynamics and practices identified above and not *viceversa*. The possibility that once inside the expert groups system such *phenomena* intensify cannot be excluded, but, nonetheless, a neat causal relationship is assumed starting from the theoretical premises delineated above. For what concerns multicollinearity, the variables liable of creating such problems have been put aside, as shown above. For the remaining variables the Variance Inflation Factor (*VIF*) has been calculated to detect this *phenomenon* (Sykes, 1993). The result, as shown in Figure 15, is rather low excluding thus the risk of multicollinearity and its ‘bias effect’ on the estimates (Sykes, 1993).

³⁵ A caveat is needed. Indeed, Mahoney (2004) employs a rather different analytical strategy despite the similarity of the *phenomenon* analysed. Her strategy consists of two stages: she aims to account, firstly, for the factors determining whether an interest group has access to the Commission consultative committees and then, for the determinants of high levels of participation therein. In doing so the author utilises two methods: a logit regression (for the dichotomised dependent variable) in the first stage and a zero truncated Poisson regression (for the unaltered dependent variable) in the second stage. The latter, indeed, is the most appropriate model to analyse the number of seats held by those groups already active in the system by concentrating exclusively on those actors characterised by a minimum value of one in the dependent variable. This strategy bears a major advantage: it accounts for two separate *phenomena* (i.e., the access to the system and the level of involvement therein) and their different causes. Nonetheless, the dependent variable operationalised in this study does not allow this two-phase approach due to the over presence of zero values and the extremely low frequencies of the values one, two, three and four.

Figure 15: Logit Estimates: ‘Expert Groups (dichotomous)’

Logit regression; Number of obs= 304; Log likelihood = -103.49164; LR $X^2(4) = 42.83$; Prob > $X^2 = 0.0000$; Pseudo $R^2 = 0.1714$; VIF=1.206855						
Variable	Coefficient	Standard Error	z	P > z	[95% Conf. Interval]	
<i>Explanatory variables</i>						
Networking	.1175499	.0351748	3.34	0.001	.0486085	.1864914
JTR	.3157722	.4678979	0.67	0.500	-.6012909	1.232835
EU office	1.545059	.5882931	2.63	0.009	.3920256	2.698092
<i>Control variables</i>						
Organisational Age	-.0012342	.0031214	-0.40	0.693	-.007352	.0048837
_cons	-3.687056	.5612944	-6.57	0.000	-4.787173	-2.58694

Source: Author's own calculations and compilation.

The model illustrated in Figure 15 is characterised by a rather low goodness of fit. Indeed, a *Pseudo* $R^2 = 0.1714$ with 304 observations cast doubts on the substantive significance of estimates (Menard, 2002). Besides, the parameter X^2 , accounting for the parsimony of the model (Borooah, 2002), is not sufficiently high to compensate the parameter *Pseudo* R^2 . Albeit this study is more concerned with the estimated coefficients rather than the predictive power of the model itself being aimed at testing the hypotheses formulated above, caution should be paid in discussing estimations derived from lowly predictive models. Accordingly, before examining the statistical significance and the strength of the estimated coefficients another model is employed. Indeed, the results in Figure 15 may not signify that the hypothesised variables are not correlated, but that the operationalization of the dependent variable and thus the regression model itself represent the problem. Collapsing the information contained in a cardinal variable (even though of that type, see Figure 13) into a dichotomous one for the sake of the analysis's simplicity may result counter-productive.

As a consequence, the variable ‘expert groups (cardinal)’ has been employed and another regression method has been utilised to analyse it: the zero-inflated Poisson regression (ZIP). Despite being a cardinal variable, a linear regression would be inefficient and would lead to biased results. Such a cardinal dependent variable bears two fundamental characteristics for the choice of the regression model: the fact that it is skewed to the left and the over presence of zeros. Indeed, data are highly non-normally distributed, thus rendering the OLS regression ineffective, and the variable is characterised by a very low variation, thus not allowing the employment of the Zero-inflated negative binomial regression (UCLA: Academic Technology Services, 2011). Given such a distribution of the values an ordinary count model, being the Poisson regression or the negative binomial one, might be of help (UCLA: Academic Technology Services, 2011). Yet, the over-presence of the value zero suggests the ZIP as the most appropriate method to analyse this variable (Famoye and Singh, 2006; Böhning et al, 1997). In fact, the logic underpinning the employment of the ZIP is the interest also in predicting the excess of zeros (UCLA: Academic Technology Services, 2011): why so many firms do not hold a seat in the expert groups is as much important as why few of them hold it. For exactly this focus on the over-presence of zero values the variable ‘old MS’ is brought back in. Notwithstanding its extremely low variation across the observations, it may

prove to be indispensable for predicting why so many zero values of the dependent variable are present.

Figure 16: Zero-inflated Poisson Regression: ‘Expert Groups (cardinal)’

Zero-inflated Poisson regression; Number of obs= 304; Nonzero obs = 44; Zero obs = 260; Inflation model = logit; Log pseudo-likelihood (0)= -129.04488; Log pseudo-likelihood (10)= -111.1462; Wald X^2 (5) = 594.43; Prob > X^2 = 0.0000						
Variable	Coefficient	Robust Standard Error	z	P > z	[95% Conf. Interval]	
<i>Explanatory variables</i>						
Networking	.0683881	.0155345	4.40	0.000	.0379411	.0988351
JTR	.3742537	.3608149	1.04	0.300	-.3329304	1.081438
EU office	1.410835	.5058956	2.79	0.005	.419298	2.402372
<i>Control variables</i>						
Old MS	13.10316	.6189651	21.17	0.000	11.89001	14.3163
Organisational Age	-.0010766	.0018811	-0.57	0.567	-.0047635	.0026102
Inflate_cons	-42.93276	.3360271	-127.77	0.000	-43.59136	-42.27416

Source: Author’s own calculations and compilation.

Figure 16 illustrates the estimations calculated with the ZIP model. Before discussing the statistical relevance the estimated coefficients and comparing them with the ones in Figure 15, the goodness of fit of the model must be examined. As suggested by manuals (e.g., UCLA: Academic Technology Services, 2011), robust standard errors instead of normal ones have been calculated. As a consequence, the parameters accounting for the goodness of fit have mutated: instead of a X^2 a *Wald X^2* has resulted along with *Log pseudo-likelihoods* instead of *Log likelihoods*. These are more accurate parameters for the predictive power of the model. A *Wald X^2 (5) = 594.43* is associated with a rather high predictive power of the model, given that this parameter compares the full model with a model without predictors (UCLA: Academic Technology Services, 2011). The same information may be extrapolated by comparing the *Log pseudo-likelihood (0)* and the *Log pseudo-likelihood (10)*: the former is for a model without predictors and the latter is for the model employed. As may be easily seen, the difference between these two is consistent. Accordingly, the goodness of fit of the model allows to proceed to the discussion on the statistical relevance of the coefficients calculated: they are substantively significance. Noteworthy is that, as suspected, the unsatisfactory results in Figure 15 depend on the model utilised therein rather than on the variables themselves. Indeed, even at first glance, it is evident that the parameters and the estimated coefficients calculated with the two models are consistent: the contribution of the ZIP has been to enhance the predictive power of the model.

Three variables prove to be statistically relevant: ‘Networking’, ‘EU office’ and ‘Old MS’. Noteworthy is that the variable ‘JTR’ is not statistically relevant. The remaining part of this section discusses such variables and the related hypotheses. Regarding European identity-building the hypothesis to be tested is:

H1: Ceteris paribus, firms engaged in European-identity building likely enjoy more access to the Commission expert group system

This hypothesis has been verified: not only is the estimated coefficient statistically relevant, but it is also of the right sign. Accordingly, taking two firms identical in all the characteristics, it is likely that the more engaged in European identity-building practices (i.e., participant in more European associations) is one of them and the more seats it possesses in the Commission expert groups. Although the strength of this relationship is not so high, given the particularity of the dependent variable any small variation is relevant. Besides, the estimated coefficient of the predictor 'Networking' doubles if the dependent variable is measured as dichotomous (see Figure 15). As a consequence, European identity-building represents a requisite for the insider status in the Commission expert group system.

For what regards credibility, the hypothesis to be tested is:

H3: Ceteris paribus, firms engaged in credibility oriented practices likely enjoy more access to the Commission expert group system

Also this hypothesis has been confirmed. The predictor 'EU office' is positively correlated with the dependent variable. Besides, the strength of such a relationship is rather high. Almost the same results are found when the dependent variable is dichotomised (see Figure 15). Accordingly, the presence of an EU office (indicator of credibility raising practices) is strongly correlated with number of seats held in the Commission expert groups.

Concerning transparency, the hypothesis to be tested is:

H2: Ceteris paribus, firms engaged in transparent practices likely enjoy more access to the Commission expert group system

This hypothesis has not been confirmed. In fact, the estimated coefficient of the variable JTR is not statistically relevant. This result is confirmed also in Figure 15 showing the logit model utilised to analyse the dichotomous variable. As a consequence, future research should concentrate on alternative operational definitions of the concept of transparency as a prerequisite for horizontal accountability. Another strategy might be the shift of focus from the premises of horizontal accountability dynamics (e.g., transparency) to their consequences in order to detect it. For instance, the attention granted to the detection of peer pressure dynamics by those scholars analysing the OMC/EES (e.g., Ballester and Papadopoulos, 2009; Ballester and Papadopoulos, 2008; Sabato, 2011; Vannoni, 2011) might be of help in this regard. Remarkably, the strength of the theoretical assumptions, the studies conducted by other scholars (e.g., Gornitzka and Sverdrup, 2008b; 2011) and the findings of the explorative research undertaken via the aforementioned poll suggest that the unsatisfactory results are due to 'technical problems', instead of real fallacies in the theory.

For what regards control variables, whether or not a firm is based in a old MS affects sensitively the number of seats held by that firm in the expert groups. Albeit this variable is characterised by an extremely low variation across the observations, it proves to be statistically significant and of the hypothesised sign. As suspected, indeed, the European interest group system is mostly populated by actors from the old MSs and this situation spills over the Commission expert groups: firms based in old MSs are over-represented both in the external environment of the interest group population and

within the 'insider club'. The reason being manifold: they are more familiar with the European market and the European political system, they can rely on that minimum level of resources allowing a political action and many others. Close in spirit to the 'critical resource dependence theory' delineated by Beyers and Kerremans (2007) with the aim of explaining the different degrees of Europeanization, future research should concentrate on how the firms' embeddedness in their immediate environment influences their capacity to act at European level. Regarding the other control variable, namely 'organisational age', the estimated coefficient is not statistically significant, as foreseen above. Indeed, the age of a firm does not contain useful information to be employed in the study of lobbying dynamics. As suggested, future research should concentrate on the duration of a firm's political action measuring, for instance, the organisational age of its EU representation office.

As a conclusion, European identity-building practices along with credibility oriented ones represent fundamental requisites for the access to the Commission expert groups. Indeed, the capacity of creating fluid and issue-based European coalitions along with the traditional associations grants access to the Commission 'insider club'. As theorised and demonstrated by the proponents of the theory of access (Bouwen, 2002; 2004; Eising, 2007), information on European encompassing interests supplied by European coalitions is of crucial relevance for the Commission from an informational lobbying perspective. Furthermore, informal modes of governance accounting for the emergence of close relations between regulators and firms in the national arena reserve high attention to the long term trust based interactions between the principal and agents. In a similar vein, credibility oriented practices play a pivotal role in the long term relationship between firms and the Commission: direct lobbying dynamics may be explained under this light. Indeed, direct lobbying is functionally conceived as a lobbying strategy oriented to image provision (Michalowitz, 2004) and accordingly, closely interconnected to the access to the Commission expert groups.

CONCLUSION

The informational lobbying approach, although initially emerged on the other side of the Atlantic as an analytical tool to foresee under which conditions a lobbyist influences the legislator, proves to be of help in analysing the European reality. In fact, information represents the real 'political money' (Eising, 2007) in the European domain. The understaffed European institutions cope daily with an extremely wide spectrum of technical issues thus requiring expertise from different sources. On the other side, interest groups are more and more interested in accessing the European decision-making process. The result, as conceptualised by the proponents of the theory of access (Bouwen, 2002; 2004; Eising, 2007), is an *inter pares* exchange of resources between the public authority and interest groups. Besides, building on these assumptions, a morphology of access may be traced. In fact, European institutions are concerned with different types of information. Accordingly, the capacity of supplying information on crucial national interests will grant access to the Council, whereas information on European interests will be indispensable for the Commission. This horizontal exchange of goods shifts to a hierarchical relationship when the monopoly over access enjoyed by the Commission is coupled with the use of policy *fora* to face an interest overload. By utilising the non-policy benefits a division between insiders and outsiders is created within the interest group population. The Commission in order to reduce the possibility of misinformation and

free-riding among interest groups creates an ‘insider club’ of interests groups where it gathers information and support.

The principal-agent model is an indispensable theoretical tool for the comprehension of the European institutional arrangements and the dynamics occurring therein. It can be applied to a wide range of modes of governance: in the European domain from the most hierarchic to the most informal ones along with the dynamics occurring at national level in the relationship between regulators and firms. The elite forum based politics emerged between the Commission and interest groups may be analysed with the theoretical lenses of a principal-agent approach. Nevertheless, as argued, the principal-agent model, as employed in its conventional conception, needs a fine-tuning in order to cover all the facets of the *phenomenon*: horizontal accountability and the trust based interactions characterising the ‘insider club’ necessitate further elaboration. The Commission influences business lobbying dynamics by regulating the access to its expert groups and by establishing a destabilisation regime therein. Nevertheless, not only does the Commission behave like a policy entrepreneur in such an active role in regulating the relationship with interest groups, but it acts also as a politics entrepreneur promoting certain lobbying practices and dynamics: credibility, transparency and European identity-building have become the cardinal elements of the European business lobbying.

The process whereby the Commission shapes business lobbying practices and dynamics is straightforward. In fact, by establishing a destabilisation regime in the ‘insider club’ and by engaging in long term trust based relations with few insiders, the Commission actively incentivises interest groups in following certain lobbying practices rather than others. Accordingly, the capacity of representing an interest as European becomes a prerequisite for obtaining and preserving the insider status. Besides, transparency comes to be perceived as an indispensable requirement in order to bolster peer review between agents: the only manner in which agents may be controlled in such a fluid principal-agent relationship. Last but not least, credibility assumes crucial relevance in the elite forum based interactions between the Commission and the insiders. Close in spirit to the ‘critical resource dependence’ theory employed by Michalowitz (2004), it has been argued that this is how the demand side influences the supply side. Firms, indeed, face multiple options of action in the political arena and they choose them according to the functions they perform: being member of various European coalitions, engaging in direct lobbying practices and being transparent represent the optimal strategy mix to access the Commission expert group system.

Future research should concentrate on several aspects of this approach. First of all, as specified above, peer review dynamics deserve more attention from two perspectives. In fact, the detection of horizontal accountability cannot be disentangled from the analysis of cognitive *phenomena* such as learning, socialisation etc.: only a thorough examination of the dynamics occurring amongst interest groups may isolate peer pressure. Besides, the so called ‘transversal lobbying’, namely the emergent *phenomenon* whereby business actors embark in interest representation in coalitions with NGOs (Greenwood, 2011), represents a relevant case study where to deepen the topic of horizontal accountability amongst interest groups. Furthermore, the possibility that the European public sphere could step in and play the role of the ‘watchdog’ of the European lobbying practices should not be forgone. Indeed, many recent developments, such as the increasing attention devoted to lobbying on the part of the mass media and the public opinion in monitoring and assessing the transparency of European lobbying, may be seen under this light. The pressure exerted by mass media and public

opinion on the European institutions for a fairer and more transparent lobbying system is clearly perceived by a respondent of the poll: “The EP keeps currently a high pressure after a scoop of the Sunday Telegraph, whose journalist pretended to be a lobbyist and managed to corrupt 5 MEPs. Therefore, the Parliament put forward some proposals to further regulate lobbyists” (anonymous respondent 1, 2012).

Secondly, the critical resource dependence theory employed in this work should be widened in future: in a similar vein as the Michalowitz’s (2004) model, the necessity to embrace the entire spectrum of lobbying strategies urges. This has been partly done above: the requisite of credibility for the access to the Commission ‘insider club’ explains why firms have increasingly established EU offices and besides, why the use of the so called ‘hired guns’ have decreased. Furthermore, close in spirit to the work of Klüver (2011) and Coen (1998) a greater emphasis should be devoted to the internal structure of firms and how it is shaped by the necessity of action in the lobbying arena. A theory accounting for the restructuring of firms’ structure as a response to the need to follow the logic of influence delineated above is needed. Last but not least, the importance of the immediate context where firms are embedded should not be underestimated. A ‘theory of everything’ is not a feasible aspiration in social sciences (Austen-Smith and Wright, 1996) and any attempt to achieve it is inexorably bound to fail: these considerations are merely cues from which future research projects may stem. If properly undertaken, such studies will represent a considerable advancement of the literature on European lobbying.

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