

CORPORATE LOBBYISM IN BRUSSELS

The institutional benefit of interest representation in the policy-making process using the example of the Commission's Light Bulb Decree

A Thesis submitted to

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List of Abbreviations

Council	Council of the European Union
EC	European Commission
EU	European Union
EP	European Parliament
LAMU	Laboratory for chemical and microbiological analytics
ETI	European Transparency Initiative
RCI	Rational Choice Institutionalism
ToA	Theory of Access

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1. INTRODUCTION

“I find out what the world needs. Then, I go ahead and invent it” (Edison cited in Wilson & Marcus, 2000, p. 70). This simple but effective premise may have motivated Thomas Edison to invent the light bulb in 1879 and profoundly changed human existence and daily life forever. Nevertheless, one of the greatest inventions in history of mankind has – literally speaking – switched off.

130 years later the European Market for household lamps has become subject to EU Regulation 244/2009, which enforces the gradual phase-out of conventional light bulbs and their replacement by more efficient alternatives such as halogen, compact fluorescent lamps or light-emitting diodes (LED). As of September 2012 exclusively so-called energy-saving lighting sources will be permitted on European markets (Official Journal of the European Union, 2009). The regulation was adopted in regard to EU Directive 2005/32/EC of July 2005 which obligates the Union to establish a framework for the setting of eco-design requirements for energy using products (Official Journal of the European Union, 2005).

According to the Commission, the use of energy-saving bulbs would save 40 billion kilowatt hours (kWh) energy each year in Europe. For comparison, this is approximately equivalent to the annual electrical consumption of the German federal state Hessen. In Germany, the potential savings is predicted 7.5 kWh which is 1.4 % of the annual energy consumption in Germany (Deutsche Physikalische Gesellschaft, 2010). In view of this tiny energy saving potentials, it is remarkable, that energy-saving bulbs have gained such a political attention. It appears as though that particularly the industry benefits from the Commission's light bulb decree, more precisely OSRAM and Philips, who were significantly involved in the policy formulation process. Given that energy-efficient light bulbs are highly controversially, it is even more suspect why the Commission took the opinions of OSRAM and Philips into account when the Commission not had profited from the interrelation. In due consideration of Bouwen's Theory of Access (ToA), one can assume that the Commission encourages lobbying in Brussels. Therefore, the bachelor thesis aims to answer the main research question:

To what extent does the European Commission benefit from interest representation of companies in Brussels in the decisional process?

“The more flowers and trees can be found in the garden of European politics, the more birds and bees will try to collect the nectar” (van Schendelen, Trends im EU-Lobbying und in der EU-Forschung, 2007, p. 72). This allegory by van Schendelen put in a nutshell the development of lobbying in Brussels in the last 20 years. Since the political scene has moved towards the European institutions, Brussels has become an important recipient for diverse interest groups, particularly for companies and trade associations. In the 1980s, it was foremost business groups who set the EU under pressure to relaunch the European economy in order to strengthen their competitiveness. The result was the Single European Act of 1986 which can be considered to be “a grand bargaining trade-off between member states” (Greenwood, 2011, p. 81) and a strong example of the member states’ willingness to achieve a closer and more significant integration.

Today, it is estimated that at least 15,000 “birds and bees” in form of trade associations, business and industry groupings, chambers of commerce, trade unions, regions, public relation consultancies, law firms, think tanks, issue-specific conferences, NGOs, non-profit organizations, and church associations cluster at Brussels to represent their interest and get the “nectar”, videlicet regulations and laws to their benefits (European Parliament, 2008). Despite this large amount of different interest groups, it is obvious, that the most effective key players are large companies and EU business associations. Undisputable, “business lobbying is booming in Brussels” (Coen, 2009, p. 155). Whereas in 1983 the number of companies having offices in Brussels was estimated at 50, it is today estimated at 300 companies. This number includes a variety of firms from most of the 27 European member states lobbying in direct competition with US, Japanese, Swiss, and South Korean companies for access and influence in the EU decisional process (Coen, 2009, p. 155).

Due to their significant economic and informational resources, “business interests are able to exert influence along the European policy process from initiation and ratification of policy at the Council of Ministers, agenda-setting and formulation at European Commission (EC) forums, reformulation of policy at the European Parliament (EP) committees, to the final interpretation, harmonization, and implementation of regulation in the nation state” (Coen, Business Lobbying in the European Union, 2009, p. 145). This increasing dominant role of business lobbyist in the European policy-making is seen very critical by political observers. In contrast to the United States of America where the term of lobbyism is positively connoted and has always been understood as “acknowledged pursue of interests in a pluralistic democracy” (Leif & Speth, 2003, p. 25), lobbyism in Europe is often referred to as “shady deals” (Wehrmann, 2007, p. 47) taken place in back-rooms excluding media, observers, and population. Since the term of lobbying can more likely be seen as a catchy

headline for diverse literature, the most appropriate term according to van Schendelen (2010) is public affairs management which describes the art of influencing the environment for own purposes. However, the bachelor thesis in hand will grasp lobbyism as mutual exchange relation between governmental actors and private business groups to satisfy demands on both sides.

Accepting that the existence of lobbyism affects largely public policies in the European Union (EU), scholars have conducted a range of researches in the last years. The interest group studies by David Coen, Jeremy Richardson, Beate Kohler-Koch, Rainer Eising, Pieter Bouwen and Andreas Broscheid certainly belong to the most important ones. Regarding the status of research, much progress has been made in data gathering about interest group populations. Furthermore, current researches discuss mobilization strategies of interest groups and access criteria to institutions. The latter will be the objective of research to the bachelor thesis in hand which seeks to understand the relation between Commission and business lobbying as exchange relation basing on the work of Michalowitz (2004) and Coen (2009). Much literature can be found describing the professional profile of lobbyist and their different strategies. Particular emphasis is placed on different forms of organization such as public affairs agencies, Think Tanks, Spin Doctors , etc. (Van Schendelen, 2010; Tenbrücken, 2006; Joos, 2011; Michalowitz, 2004; et al.); however, the thesis will solely focus on the resources demanded by the Commission and provided by companies.

Acknowledging the purpose of the research, the bachelor thesis in hand shall introduce the theoretical framework and the methodology used. The second part of the bachelor thesis shall analyze the exchange of access goods between the EC and business interest groups emphasizing institutional demands and supplies of the Commission. Following, the third part of the thesis shall then present the empirical findings in forms of a case study which shall illustrate the interrelation between the Commission and OSRAM and Philips. It shall further elaborate the advantages and disadvantages which may arise for the Commission. The thesis will be concluded by a recapitulation of lobbying activities in Brussels, taking into account the consequences for legitimacy of the European policy-making process.

2. THEORETICAL FRAMEWORK

In a political science study, theories enable the researcher to structure observations, to identify patterns of behavior, and to develop criteria for universally valid statements (Michalowitz, 2007, p. 25).

In the bachelor thesis in hand, the appropriate theory to explain the mechanism of lobbying in respect to the involved actors and their incentives is the ToA as it is applied by Pieter Bouwen.

2.1 Bouwen's Theory of Access for Business Interests

“Rather than viewing lobbying in the European Union institutions as a unidirectional activity of private interests vis-à-vis this institution, it can better be conceived as an exchange relation between interdependent public and private actors.”

(Bouwen, 2009, p. 19)

Since the 1960s, social approaches have started to analyze the interaction between lobbyists and EU institutions by reference to exchange models (Levine & White, 1961; cited in Bouwen, 2009, p.22). This conception of EU interest representation as a series of inter-organizational exchanges has become a key approach within the expert literature (Greenwood et al., 1992; Buholzer, 1998; Pappi & Henning, 1999; cited in Bouwen, 2009, p.22). Assumed that all involved actors are rational-thinking individuals, the organizations make an implicit or explicit cost benefit analysis before they decide with whom to interact or not (Bouwen, 2002a, p. 368).

According to the ToA, the whole lobbying process can be described as a market. Like in every market, there is someone who asks something and someone else who provides it in exchange for something else (Marziali, 2006). On the EU-lobbying market, the access good at stake is information: Whereas the EU bodies need information to carry out their activities, interest groups need to have access to these institutions to influence their decisions” (Bouwen, 2001; cited in Marziali 2006, p.25).

2.1.1 What are Access Goods?

Understanding lobby activities of business interests in the European institutions as an exchange relation between public and private groups of interdependent organizations is closely linked to the resources dependence perspective which emphasizes not only the ensuing interdependence between the interacting organizations, but focus additionally on the importance for organizations to exchange resources (Pfeffer & Salancik, 1978; cited in Bouwen, 2009, p.22). Consequently, the resources all actors bring into negotiations as basis for political exchange have to be examined.

From a resource exchange angle, the question arises of which goods are valuable for governmental actors or interest groups and how do they serve as mean of interest representation advantageous for the EU as whole.

The main resource demanded by corporate lobbyists is access to the policy-making process (Bouwen, 2009, p. 22). Among the corporate interests, distinction needs to be made between their seek of access and their seek of influence. Gaining access does not necessarily mean exerting influence, since it is possible to gain access without exerting influence (Bouwen, 2004, p. 337). The other way around it looks however different: Without access, exercising influence in the EU legislative process is infeasible. Studying access is therefore likely to be a good indicator of influence (Austen-Smith, 1995; Coleman & Grant, 1988; Hansen, 1991; cited in Bouwen, 2004, p.337).

One demand of business interest groups is influence in the agenda-setting process (Michalowitz, 2004, p. 59) in order to support, prevent, or change a Commission's policy proposal to their own benefits; but what business groups mainly require is Access to the Commission's policy formulation as main resource. The Commission demands in return resources that are important for its own functioning – so-called access goods – videlicet, expert knowledge, legitimacy and support (Bouwen, 2002a, pp. 369-371). Bouwen (2002a) defines access goods as "goods provided by interest groups to the EU institutions in order to gain access to them. Each access good concerns a specific kind of information that is important in the EU decision-making process. The criticality of an access good for the functioning of an EU institution determines the degree of access that the institution will grant to the interest representatives." (Bouwen, 2002a, p. 370).

According to this definition, information is considered the most important resource in the exchange between business interests and the EU institutions. The importance of Expert Knowledge in the EU decision-making process has been widely acknowledged in the

literature (Bowen, 1997; Buholzer, 1998; Pappi & Henning, 1999; Radaelli, 1995; Truman, 1951; Van Schendelen, 1994; cited in Bouwen 2002a, p.369).

Furthermore, Bouwen (2002) differentiates between three types of access goods that concern three different kinds of information: Expert knowledge, European Encompassing Interest and Domestic Encompassing Interest. Expert Knowledge means the expertise and technical know-how EU institutions require from the private sector to understand the market and therefore, indispensable information in developing effective EU legislation in a particular policy area. Encompassing interest can be defined as an interest in whose formulation more interested parties are involved. Hence, encompassing interest are the results of an aggregation of individual interest or interested parties. When aggregation of interests takes place at the European sectoral level, European Encompassing Interest is involved, whereas interest aggregation at the national sectoral level implies Domestic Encompassing Interest which shall be neglected in the following research.

In line with Bouwen's ToA, "the ability of different interest groups to influence policy can be expected to stand in direct proportion to the amount of access goods they control" (Lindgren & Persson, 2011, p. 87). It can be assumed that interest groups who represent concentrated political interests have more relevant access sources available than interest groups who pursue diffuse interests (Lindgren & Persson, 2011, p. 87).

2.1.2 Supply of access goods

As already mentioned above, being able to supply access goods is essential for business interests who want to establish an exchange relationship with a targeted institution at the EU level. However, not all actors have the same capacities for providing these access goods. The capability to supply access goods depends on the organizational form of a company. Organizational form of a company includes its size, economic strategy, and domestic institutional environment. Size of a company can be decisive since large organizations have enough resources to lobby individually, whereas smaller ones often have to rely on collective action to undertake action at different levels in the EU multi-level system (Bouwen, 2002a, pp. 373-374) Furthermore, economic strategy of a company might be important variable regarding different market strategies of national niche players and large internationally oriented firms which require different political strategies (Bouwen, 2002a, p. 374). Last but not least, the domestic institutional environment means the working

relationship between state administrative elites and private interests at the national level (Bouwen, 2002a, p. 374)

2.2 Limitations of the Theory of Access

Not for unjustified reasons, the theoretical approach of access goods is not often propounded in the prevailing academic opinion and literature. The ToA can merely provide a one-sided view on the resources companies bring into the negotiations with policy-makers; yet, the approach does not allow conclusions about the quantity and/or quality of the provided goods. Moreover, by using the ToA, only statements about the suppliers, *videlicet* interest groups can be made whereas institutional and structural mechanisms are neglected. The ToA is hardly able to accomplish a complete explanation for interest representation. Consequently, other theories need to be taken in consideration in order to fulfill the picture.

Throughout history of European integration, the activities of interest groups have been observed by lobbying research from different point of views. In the beginning, several researchers tried to explain the interaction of different actors within the decisional process by extending the pluralist or corporatist theoretical approaches from the national level to the European level (Michalowitz, 2007, p. 25). Corporatist theories put emphasis on the steering and output aspects attributing the state an active role (Czada, 2004) whereas pluralist theories, on the contrary, focus more on the input aspects and see the state in a passive role (Schmitter & Streeck, 1991).

Other scholars focused on transnational collective action (e.g. Greenwood) or particular patterns of transnational political mobilization to examine how interest groups influence the EU decision-making process (Scharpf, 2004 cited in Charrad, 2010, p.29). Furthermore, there is also research conducted from a normative perspective recognizing that interest participation contributes to an increasing legitimacy of both, EU institutions and EU decisions (Schmitter, 1979; Lehbruch, 1979 cited in Charrad, 2010, p.34).

Regarding the research on patterns of interest mediation in the EU, theoretical approaches put main focus on the character of the relation between political decision makers and interest groups by having obtained the basic assumption of pluralism and neo-corporatism. Later, the network analysis was used as significant supplement to existing approaches renouncing from the rigid regard to the State of pluralist and neo-corporatist approaches

and is therefore, a more adequate method to analyze the European multi-level governance with its parallel decision and control structure.

Given furthermore that “the rise of long term lobbying perspectives and sophisticated political business logics has challenged traditional forms of [EU] collective actions” (Coen, 2009, p. 163), the emerge of new (partially informal) collective arrangements during the last years have enriched direct lobbying strategies as important channel to influence the policy process (Coen, 2009). For example, the model of advocacy coalition by Paul Sabatier aims to explain policy changes by describing the existence and correlation of different programmatic coalitions in a certain policy area. Hence, the approach examines all relevant actors within the same policy field carrying out directly a policy issue (Sabatier, 1993). These actors do not have to be necessarily politicians, but may also originate from the economical, administrative, or social sector. Beyond these public and private actors, individual persons like scientists, journalists, political consultant, and other experts can be part of an advocacy coalition.

In an advocacy coalition different actors share the same belief systems basing on similar knowledge, experiences and interests and therefore want to introduce their demands in the policy-making process. If different actors share a common belief system as “set of basic ideals, causal assumptions, and problem perception” (Sabatier, 1993, p. 127) over a longer period, an advocacy coalition emerges. By influencing the behavior of outside actors, this advocacy coalition targets to transfer its belief system into public policy. Within an advocacy coalition, the actors do not only affirm their commitments to the same purposes; an advocacy coalition can be characterized by a gradual coordination of joint actions (Sabatier, 1993).

In addition to that, another approach from an economical perspective, the Rational Choice Institutionalism (RCI), assumes that institutions – whether they are formal or informal – set the scope of actions for all individuals. Thus, institutions are perceived as primary extern independent variables which affect individuals’ behavior and relations among them by providing rule-based constraints and incentives (Hall & Taylor, 1996, p. 943). The RCI explains not only why and how institutions emerge and develop; it also examines the influence institutions have on rational actors within the policy-making process (Weingast, 1996, p. 167). In respect to lobbying, by means of the RCI, the implications of changed institutional parameters on European level for interest representation can be analyzed.

Although a wide range of alternative theories exists, the bachelor thesis in hand shall exclusively focus on the ToA. By emphasizing the role of resource exchange, videlicet potential supplies and demands that all actors bring into the negotiations, the approach assumes why interest groups and government actors offer something of value among themselves. Consequently, interest groups must offer a valuable object if they want to be able to affect the political process, while government actors for their part must offer a valuable object to encourage interest group's engagement in political activities (Princen & Kerremans, 2010, p. 32).

On the assumption that interdependencies and power distribution affect the specific interests, the relevant factors determining the exchange shall be revealed. The following analysis aims to answer the question how public and private actors can engage in an exchange and negotiate the price for their goods with each other. Prior to the analysis, the methodology and research design of the Bachelor thesis shall be presented.

3. METHODOLOGY AND RESEARCH DESIGN

The research goal, set particularly by the established research question, together with the theoretical framework determines the methodology that has been chosen. The research question implies a causal relationship between the dependent variable y of institutional advantages for the commission and the independent variable x determined by the presence of corporate lobbying in Brussels. Institutional advantages can be operationalized by the terms of information, legitimacy and support of politically relevant actors.

In order to pursue the research topic, the study in hand carries out deductive research, in form of an extensive systematic literature review of EU documents on interest intermediation within the EU, as well as inductive research in form of data mainly gathered qualitatively by a case study.

In the first part of the bachelor thesis, the relation between lobbyists and the EC shall be examined in the course of a literature analysis using official EU documents as primary source and current literature in the field of lobbying as secondary source. The analysis of EU documents, press-releases, newsletters, and panels reflects the current situation of lobbying in Brussels. Moreover, by scanning and analyzing recent specialized literature, a constellation of involved actors shall be established for the purpose of explaining routes of influence for corporate lobby groups. This literature review is mainly used to lay out the basis and be able to explain the frameworks of lobbying in Europe. Furthermore, the literature analysis shall primarily build on already conducted research that focuses on the role of lobbies within the context of European governance in addition to power relationships and decision influencing features as can be found at Pollack (1997), Kohler-Koch/Eising (1999) or Richardson (1999). Furthermore, the works of Greenwood (2011), Michalowitz (2007), van Schendelen (2010), and Joos (2010) shall serve as theoretical foundation. The theoretical approach of access goods by Pieter Bouwen shall be adapted to the exchange relation of companies and the Commission within the policy-making process. Thereby, the bachelor thesis shall put emphasis on the role of the EC as most important recipient.

After having discussed the research question theoretically, the empirical analysis is designed in form of a case study in the second part of the bachelor thesis. A case study is an "intensive study of a single unit for the purpose of understanding a larger class of (similar) units" (Gerring, *What Is a Case Study and What Is It Good for?*, 2004, p. 542). The

Commission's decree on light bulbs in September 2009 shall serve as case study how the companies OSRAM and Philips together with the business association European Lamp Companies Federation influence policy making to their own benefits.

The collected data originates, among others, from a scientific study published in „Zeitung für Energiewirtschaft“ in October 2010. Within this article the economical and ecological benefits of energy efficient bulbs are discussed regarding their value for customers. Additionally, the data is basing on the documentary report “Bulb Fiction” by Christoph Mayr which was broadcasted in the Austrian television in May 2012. Even though being populist in some extend, the film reveals the “dark deeds” of lamb industry.¹ Within the film “Bulb Fiction” by Christoph Mayr various experts such as technical and industrial clerks, economists, scientists, EU parliamentarians, and medicines express their views and provide useful information on the topic.

The case study can be considered main base of the empirical research that give deeper insight in the policy field and the on-going processes by taking the example of the light bulb decree. In contrast to other methodological approaches like monitoring or quantitative studies, the qualitative method of a case study proves to be advantageous since the relatively young phenomena of lobbyism in Europe is still very intransparent and information is only available with considerable difficulties.

The bachelor thesis shall conclude by presenting the empirical findings and elaborating possible recommendations to the EU institutions for future policy with interest groups.

¹ Both Companies did not respond to the reproaches within the film (Mayr, 2012). Nevertheless, OSRAM releases an official statement of the ELC on its website www.osram.de. According to the ELC, the film “Bulb Fiction” delivers a “sensationalized view of the situation” (European Lamb Companies' Federation, 2011). The research, conducted by Mayr prior to the movie, would be superficial and presents an “irresponsible interpretation of the facts” (European Lamb Companies' Federation, 2011). Furthermore, the ELC states that “the benefits of energy efficient lighting are numerous and significant and provide consumers choices for reducing energy consumption while maintaining high quality lighting” (European Lamb Companies' Federation, 2011).

4. ANALYSIS – INSTITUTIONAL DEMAND AND SUPPLY

The EU is a very open, poly-centric system with no superior authority, but with fragmented and mutually dependent institutions acting side by side. Each institution has its own strategic goal and sufficient competences and autonomy to reach it (Tenbrücken, 2002, p. 79). Due to the absence of a single decision-maker, the policy processes in the EU can be described as joint decision-making which leads very often to a competitive agenda-setting and makes a clear and systematic analysis of lobbying during the policy process relatively problematic (Tenbrücken, 2002, p. 80).

Since governmental institutions have the exclusive legal power to take binding decisions, they assert the monopoly on influence in the EU policy-making process. Therefore, it can be assumed that governmental institutions are the stronger counterparts in the exchange. Institutional structures cannot only influence the organization of interest, but also the possible lobbying channels in a significant way (Tenbrücken, 2002, p. 53). It can be stated that “the political system of the European Union consists of a number of institutions that are involved in the decision-making process and that are likely to each develop different demands as well as different supply possibilities for engaging in an exchange with private actors” (Michalowitz, 2004, p. 59).

The most decisive institutions are the EC, the EP, and the Council of the European Union (in the following called Council) which together form the Union’s central legislative and decision-making body (Joos, 2011, p. 98). The Commission initiates legislation and executes control functions over community law and is scrutinized by the EP, the only directly elected institution. The Parliament in turn debates and passes European law together with the Council which consists of Member State ministers and their delegates, and therefore, represents the power of Member States (European Union, n.d.). Farther, lobbying the European Court of Justice and the Committee of Permanent Representatives (COREPER) is subject to the intergovernmental perspective on lobbying. Although the EP is today a more credible lobbying opportunity for interest groups than ever caused by its increased legislative power, the Parliament has little formal power to influence the Commission and therefore to supply access in general (Michalowitz, 2004, p. 67). Also the Council is not a fruitful trading partner for business lobbyist in terms of exchange. The Council neither demands for expert information, nor can it supply great influence in the policy-making process. Lobbying the Council would therefore mean to be a waste of time and resources

(Michalowitz, 2004, p. 69). The analysis of all institutions would go beyond the scope of this thesis and will therefore be neglected. The bachelor thesis in hand shall primarily focus on the EC since the legislative lobbying, videlicet the attempt of private interests to influence the legislative process, has become the major lobbying activity in Brussels (Bouwen, 2009, p. 23). As agenda-setter during the early phases of the EU legislative process, the Commission offers a strategically important channel for lobbyists. As foremost target, demand and supply of the Commission will be examined more precisely in the following chapter.

4.1 The European Commission's Demand of Access Goods

In the inter-institutional network the EC plays a special role as initiator of legislation and is accordingly in charge to determine the content and wording of directives and regulations at EU level (Joos, 2011, p. 102). As Article 17 TEU grants the Commission the formal right to initiate legislation, every legislative process starts with a policy proposal from the Commission. For this reason, the Commission maintains a strong position towards other European institutions regarding agenda-setting (Michalowitz, 2004, p. 63). Due to its important function in the decision-making process, the Commission is the main recipient for private actors.

“Proposals by private actors for a legislative act that are taken up by the Commission are likely to have a large impact on the overall policy outcome, and proposals that are not considered by the Commission are not likely to find their way into the document at a later stage”

(Michalowitz, 2004, p. 63).

Due to the Treaties, the Commission has to attend to its duties regarding consultation before proposing consultation. Article 47 of the Treaty establishing a Constitution for Europe lays down the principle of participatory democracy stating in paragraph 2 that “the institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society“. Especially the Commission “shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent” (Official Journal of the European Union, 2004).

The Commission understands itself as an institution that has always been open to outside input and encourages dialogues that are proved valuable for both sides, the Commission and interested outside parties (Marziali, 2006, p. 31).

Its legislative power explains, why the Commission is a – if not the most - crucial actor for lobbyist on the EU scene to exercise influence on the political agenda. Nevertheless, the Commission's monopoly of legislative initiative is restricted by the requirement that the Council as well as the EP (under Codecision) have to consent to every proposal before it can enter into force. Thus, the interaction with private interest groups is based on the Commission's expectations to increase its technical expertise and legitimacy, as well as its ability to maintain consensus among the member states (Woll, 2009, p. 293). For this reason, the Commission is in need for the access goods of information, legitimacy, and support (Bouwen, 2002a, pp. 369-371) which the Commission receives from consultations with diverse interest groups.

4.1.1 Need for information

The Commission's main task is the drafting of appropriate policy proposals which takes place in the first phase of the legislative process. Yet, before such a proposal can be elaborated, the Commission needs to gather a substantial amount of technical and political information and expertise. "This is the expertise and technical know-how required from the private sector to understand the market. This kind of information is indispensable in developing effective EU legislation in a particular policy area" (Bouwen, 2004, p. 340).

Although member state administrations have a lot of technical know-how at their disposal, as the EU administration, they often suffer from their physical distance to the market and do not have this kind of technical market expertise (Bouwen, 2002a, p. 369) Due to its own under-resourced nature, the Commission is highly dependent on the supply of information provided by external sources and is eager to interact with lobbyists, especially in the early phases of the policy development process (Bouwen, 2002b, p. 15).

Information demanded by the EC has to fulfill two requirements: "representivity of the source and the substantiveness of the material" (Michalowitz, 2004, p. 61). Following this logic, a source of information is representative on condition that a decision is "applicable in all member states and for all involved parts" (Michalowitz, 2004, p. 61). Consequently, the Commission will never make a decision on the basis of one single opinion – no matter from

which kind of interest group it is stated. In order to be sufficient evident and therefore representative, a number of opinions has to be included in the decisional process.

Nevertheless, information is not only seen as a means to develop a proposal that will successfully pass the legislative procedure. According to the principal-agent theory, information is rather a feature that determines the relation between different actors, particularly in cases of information asymmetry. This approach can be used to theorize the relation between Commission and interest groups. The Commission can be conceptualized as a principal that delegates its information-gathering functions to the lobbyists, which become ergo the Commission's agents. In order to avoid possible incentives for opportunistic behavior, it can be assumed that the Commission employs a mechanism to reward useful and correct information. This implies that the Commission will observe the policy outcome after having received and implemented a lobbyist's recommendation (Broscheid & Coen, 2003, p. 171).

The principal-agent theory argues that delegating policy competences result from the informational advantage agents (interest groups) enjoy towards the principals (Commission). Consequently, the agents are better informed about its policy responsibility whereas the principals, on the other hand, suffer from the disadvantageous circumstance that information is (too) costly and time-consuming to acquire (Michalowitz, 2004, p. 55).

This information disadvantage can be explained by several factors: One reason may be that the Commission is notoriously understaffed compared to national administrations. In 2012, the EC occupies 33,033 people (European Commission, 2012). As though, the Commission has increased the number of employees during the last years, the number is still relatively low in regard to the increasing competences of the EU and its high complexity. Accordingly, when it comes to information gathering, the Commission is dependent on interaction with interest groups to fulfill its institutional role.

Besides its quantitative limitation, the Commission has to compensate its limited qualitative possibilities. Before presenting policy proposals that can be transformed into legislation, the Commission needs to collect policy-relevant information. For instance, when the Commission was preparing the legislative initiative to prohibit incandescent light bulbs, it had to acquire information on how the market for light bulb is functioning, the latest technological developments, consumers' and producers' interests et cetera. That does not only include the details of specific policies, but also the causal relationship between policies and consequences as well as the distribution of benefits related to policies. This is important since the Commission's ability of initiating legislation is restricted by the

condition that the Council and the Parliament have to approve to a proposal. Hence, the Commission lays its preferences rather on the consequences than on the policy in order to make sure that a policy suggestion will obtain consent of national governments in the Council on the one hand, and will be applicable for the EP on the other. However, the Commission lacks sufficient knowledge about if a developed policy proposal is acceptable for the Council and the EP (Broscheid & Coen, 2003, pp. 169-170).

The Commission has to consult the policy position of major stakeholders in the Council and the Parliament. Since policy-making involves a lengthy process usually enduring several years, positions and preferences of the participant actors may change. In order to extract the relevant decisive information over a longer period, the EC confers regularly with the most important stakeholders using interest groups as main indicator for a changing environment of policy positions. Interest groups of all kinds are considered to be rich source of information since they not only lobby the Commission, but also the national governments in the Council as well as the EP.

Information on what policies lead to which consequences is difficultly accessible due to high procurement costs. Furthermore, the Commission deals with a multitude of issues at the same time and does not have sufficient resources to gain enough information about the consequences of specific policies. Subsequently, the Commission declared in a discussion paper on the partnership with civil society organizations adopted in January 2000, the necessity of interest groups as supplier for expert input for EU policy making “through their links at local, regional, national and European level” (European Commission, 2001, p. 5). This paper further states that interest groups “in particular, [...] can provide feedback on the success or otherwise of specific policies by fully taking into account its overall public policy responsibility” (European Commission, 2001, p. 5).

To sum up, due to an information disadvantage, the Commission has to rely on expertise and information provided by external actors in order to be able to make appropriate proposals. The resulting dependency on the part of the Commission does not imply an intermediate harm; if anything, in common with the lobbying interest groups, the Commission benefits from the interaction. Referring to Coen and Richardson (2009b),

“it would be very odd indeed (and certainly foolish) for any policy-maker to plough ahead with a proposal in total ignorance of how the affected interest might react or of whether there might be some practical/technical difficulties which could

make the desired policy unworkable. To ignore the views and specialist knowledge of the affected interests would be akin to driving a car with one's eyes shut!"

(Coen & Richardson, 2009b, p. 339)

4.1.2 Need for Legitimacy and Accountability

Besides the lack for information and expertise, the second means preference of the EC is to overcome its deficit on legitimacy. Regarding the EU as a political community in which all institutions and member state governments share the same fundamental values and norms, it can be stated that all polities within this community have institutionalized a standard of political legitimacy. This standard constitutes all political actions which are desirable and permissible. Since all member states are liberal democracies, conclusions can be drawn that the most vital value of the EU is democratic governance (Rittberger & Wonka, 2012, pp. 7-9).

However, the EC is only indirectly democratically legitimized. Being not a subject of electoral scrutiny and therefore largely isolated from electoral control mechanisms, the EC suffers from an overall deficit of legitimacy. The delegation of power to the Commission is based on consequentialist legitimacy and hence on the efficiency of institutions in producing policy output. This means that member states have transferred power to the Commission pursuing the aim to enhance the efficiency of policy-making and to improve the problem-solving capacity of supranational governance (Nugent, 2006, p. 167).

Due to the low voter turnout in the EP elections and the generally absence of a common sense of identity shared by the EU citizens, it would be far from reality to concede the EU to represent the will of people. Even though the link between citizens with EU institutions is missing, the EU encourages interest representation on a participatory level. Consequently, all kinds of interest groups can "not only dominate input to the EU participatory channel but also perform surrogate democratic mechanisms, such as acting as agents of accountability" (Greenwood, *Interest Representation in the European Union.*, 2011, p. 1).

Whereas representative democracies have election results as a significant instrument to aggregate popular engagement and preferences, participatory democracies gain their legal acknowledgment from the participation of interest groups (Greenwood, 2011, p. 1).

The Commission as well as the member states are aware of the Union's poor legitimacy and have accordingly taken steps to compensate this deficit by empowering the EP and arguing in favor for a greater direct inclusion of interest groups in public policy making. For the latter reason, the Commission published the White Paper on European Governance in 2001

that recognizes on the one side the insufficiency of the output approach to legitimacy; and pronounces on the other side that the legitimacy of the EU should not longer constrain alone on its “ability to remove barriers of trade or to complete an internal market” (European Commission, 2001, p. 11) Further, the White Paper states that the Commission’s legitimacy “today depends on involvement and participation” (European Commission, 2001, p. 11). Therefore, the EU policy-making needs the increased participation of organized interests contributing to the process. As in the White Paper claimed, the involvement of citizens and organization does not only support the input legitimacy among the institutions as well as the output legitimacy toward the European population, but would also improve the quality, effectiveness, and simplicity of EU policies (Lindgren & Persson, 2011, pp. 5-6).

Undisputable, the attendance of interest groups may imply great chances for the political decision-making process, notwithstanding, it could also entail the major risk that well-organized, knowledgeable, and resourced groups might dominate public policy agendas (Greenwood, 2011, p. 4). The most crucial criterion for effective participation requires that all citizens enjoy equal opportunities for expressing their preferences in the policy-making process (Lindgren & Persson, 2011, pp. 5-6). However, scholars claim, that the Commission is more responsive to demands or policy proposals raised or supported by interest groups who represent a large number of citizens (Bouwen, 2002; cited in Klüver, 2010, p.40).

4.1.3 Need for Support of Politically Relevant Actors

Besides its need for information and legitimacy, the Commission is dependent on support. As already mentioned above, the legislative initiative of the Commission is restricted by the requirement that the Parliament and the Council have to give their consent. Assuming that the EC has better chances to get the approval of the Council and the EP for its policy proposals if it is support by politically relevant interest groups, the Commission will extensively encourage the interaction (Pollack M. , 2003, pp. 84-87). However, the Commission does not acknowledge all interest groups as equally important. It rather searches for support from interest groups which are considered being political relevant to national governments and Members of the EP; but was does the term of “political relevant” implicates?

Interest groups are politically relevant for decision-makers when they promise electoral and/or market power. Electoral power means an interest group’s ability to mobilize broad

potential voters. As office-seekers, national governments and the EP are dependent on the will and whim of the people, they aim to maximize votes in order to remain in office (Downs, 1968). Accordingly, they will attempt to adopt policy proposals which are promoted by a majority of potential electorates. Following this logic, the higher the number of members of an interest group, the more relevant is this group for decision-makers.

Market power means the ability of an interest group to control business investments and job creation. The behavior and performance of companies has a major impact on politics and society since it affects economic growth, the number of jobs, and the economic security of employees (Klüver, 2010, p. 42).

Both characteristics, electoral power and market power, qualify actors to become relevant as interest groups and therefore become involved by the Commission in the policy-making process.

4.2 The European Commission's Supply of Access Channels

As already mentioned above, lobbying can be conceptualized as an exchange relation between interest groups and the EC. Understanding lobbying in the EC presupposes that the Commission is not regarded as a single, unitary organized body, but a supranational institution with complex functional and hierarchical fragmentation (Bouwen, 2009, p. 23).

As supranational arena, the Commission tends to lead rather direct forces to involve outsider interest in the policy making process (Greenwood, 2011, p. 39). This implies as probably most important feature the use of consultation committees in the policy-making process which provide important channels of influence for private interest groups (Bouwen, 2009, p. 29).

Besides using these committees as style of governance, there are various ways the Commission shapes interest representation in the EU. Media coverage and popular scientific literature often convey a picture of the Commission being a passive puppet on the strings of interest groups (cf. Karr, 2007, p.82; de Breláz & Alves, 2011, p.208); in reality, however, the Commission actively tries to encourage lobbyism and guide European interest activity (Bouwen, 2009, p. 26). For this purpose, the Commission has three crucial instruments to its disposal: the committees as previously mentioned, financial resources, and rule-making power.

First, the use of committees in the policy process is one of the Commission's most important institutional features. These consultative committees can be established during the policy development phase in order to obtain the two important resources of expert knowledge and legitimacy. The Commission not only establishes the committees, it also chooses the participants, distributes responsibilities and determines the relevant procedures (Bouwen, 2009, p. 29). There are comitology committees and expert committees that are exclusively composed of member states officials and there are (non-comitology) consultative committees in which also private interests can participate. Even though the outcomes of a committee's meeting are not binding for the Commission, they provide at least substantial input during the policy development phase and therefore the EU legislative process as a whole. As elemental access point to influence the EU policy-making process, private interest groups in Brussels aim to engage, or alternatively be informed about what is discussed, in consultative committee meetings (Bouwen, 2009, p. 30).

Second, the Commission provides financial support to EU interest groups and sponsors in this way directly interest representation in Brussels. The Commission is predominantly funding citizens or social organizations for the purpose of "foster a more balanced dialogue with civil society" (Bouwen, 2009, p. 27). Data basing on the CONECCS² data set compiled by Christine Mahoney (2004) shows, that in 2004, 64 groups were reported to receive financial assistance from the Commission, of which citizen or social organizations form the large majority. Furthermore the study reveals that citizens' groups alone gained 44 per cent beneficiaries in 2004; business groups, including professional and trade associations as well as cross-sectoral associations, obtained only about 14 per cent (Mahoney, 2004, p. 445). This feeds the impression, that "the Commission's differential funding suggests a conscious attempt to shape the system of EU interest representation" (Bouwen, 2009, p. 27).

Third, the Commission uses informal rules or guidelines which results from customs, routines or diverse procedural rules to organize and shape the interaction with private interests at the European level (Bouwen, 2009, p. 27). Although not being authorized by a legislature process, informal rules are an acknowledged feature in the involvement of civil interest groups into the EU policy process. The proposal to include informal rules in the consultation process was initially justified in the White Paper on European Governance

² CONECCS is a joint transparency register launched by the European Commission and the European Parliament. All organizations which operate on EU level can be listed voluntary.

passed in July 2001 (European Commission, 2001). This White Paper was adopted with the aim to comprise more civil society organizations which would in reverse increase the overall legitimacy of the Commission's policy actions (Bouwen, 2009, p. 28). Accordingly, the White Paper's proposal to enhance the use of informal rules and guidelines concentrates solely on the interaction with non-business groups what leads to the assumption, that the Commission pursued again to remedy the dominance of business interest groups in the policy making and implementing procedure (Bouwen, 2009, p. 28).

In addition to it, the Commission has been very active in establishing and maintaining interest groups of all types constituted on EU level for the purpose of using interest groups to exert pressure on the position of other groups, member states, and other EU institutions (Greenwood, 2011, p. 5).

4.3 Companies as Demanders and Suppliers of Access Goods

Interest groups in general and business lobbyist in particular have always been active in European policy. "Firms might support European Integration and the shift of law-making competence to the EU level because they assume to encounter a less restrictive environment if certain issues are not dealt at the national level anymore" (Tenbrücken, 2002, p. 81).

Companies as political actors in the policy network have the primarily interest to acquire and maintain favorable conditions for their economical operations in the respective judicial system. Therefore, companies settled down in Brussels aim to gain access to the EU policy process for their benefits and consider direct lobbying as the most effective mean. Companies do lobbying to "exert influence along the European policy process from initiation and ratification of the policy at the Council of Ministers, agenda-setting and formulation at European Commission forums, reformulation of policy at the European Parliament committees, to the final interpretation, harmonization, and implementation of regulation in the nation state" (Coen, 2009, p. 145). On that account, companies want to establish trust by delivering technical and political information to EU policy makers and enhance, by doing so, the legitimacy of the politicians. In the most cases, firms are not the initiator of a policy; they mainly react to the political agenda (Tenbrücken, 2002, p. 119).

Although the EC as main recipient for lobbying is regarded as open and accessible, it is not immediately accountable for to constituency interests and can select or ignore interest groups respective its preferences (Woll, 2009, p. 278). Hence, companies “face a trade-off between pressing for immediately advantages and responding to the interest of the European Commission, which promises them access to the policy-making process” (Woll, 2009, p. 278). If they decide for doing the latter, they have to satisfy certain requirements. This includes, among others, the establishing of a good reputation of the firm not only as a provider of reliable and sector-specific information, but also as provider for identity-establishing solutions for entire Europe (Coen, 2009, p. 156). Usually, most companies reach this “insider status” (Coen, 2009, p. 156) if they operate in cross-production and/or if they occupy many employees. In addition, the length of time, these companies have spent in Brussels may determine their reputation as good supplier for institutional demands (Coen, 2009, p. 156). Furthermore, companies are distinguished by their geographical coverage as well as their economic orientations (Michalowitz, 2007, p. 54).

Besides a good reputation, firms need to meet four further conditions for successful lobbying. First, they must be able to define timely their policy goals and, second, to understand the individuality of the European policy process including all possible institutional and policy demands. Third, companies need to bond with other actors and establish credibility in the policy process. Last but not least and building up on the third condition, firms have to identify natural alliances in order to facilitate access and promote their good reputation (Coen, 2009, p. 156).

In view of the circumstance that particular multinational companies are not single unitary actors, but a mosaic of various stakeholders and subsidiaries allocated in different countries, it is not automatically taken for granted, that those companies can easily fulfill the requirements outlined above. Moreover, companies significantly vary in their capacity to engage in political action and can have competing interests and positions. For example, multinational firms may pursue to enter cross-border markets; domestically operating firms may rather focus on adopting defensive postures to protect their home market from the threat of increased competition (Greenwood, 2011, p. 67).

The key to success is communication. “To enable such focused and constant lobbying activity, firms need to establish clear lines of communication between the government affairs department, technical line managers, public relation departments, board, and [Chief Executive Officers]” (Coen, 2009, p. 158). Communication implies moreover the flow of

information – internal and external – among all involved actors. By permanent monitoring it is even likely for large companies to be better informed about the diverse directorates and positions than the involved EU functionaries, particular in notably disaggregated policy processes (Coen, 2009, p. 158). In contrast to the governmental institutions, companies enjoy the advantage of being specialist in one specific area and are therefore only concerned with very specific issues and are in close contact with the market or their members who are directly affected by policies. Focused information helps companies to achieve credibility and political weight. The latter can be reached by sheer political mass in form of (informal) political alliances with other actors such as rival firms, associations and other public interests (Coen, 2009, p. 163).

Building up advocacy coalitions can be advantageous for all actors who seek to act in the European institutional and policy framework since changes in a given political system are easier to achieve. These Advocacy coalitions are not statically constructions, but can rather regarded as “process composed of numerous stages” (Mahoney, 2004, p. iii), in which “lobbying decisions [...] are determined by a confluence of contextual factors including institutional, issue, and interest group characteristics” (Mahoney, 2004, p. iii).

Given that companies are rational units, they are willing to engage in collective arrangements since they have more resources and insider knowledge at their disposal at lower costs. Collective action enables companies to draw on pooling resources and thus, reduce therefore transaction costs (Greenwood, 2011, p. 68). No matter if those alliances are short-term orientated to deal with fast changing single issues or long-term orientated to deal with fundamental problems – the existence of political alliances contribute to the vitality and flexibility of the European public policy process (Coen, 2009, pp. 160-163).

According to the database on lobbying of the European Transparency Initiative (ETI)³, 310 professional associations are organized in Brussels and address their lobbying activities towards EU institutions, embracing predominantly business and trade associations. However, the ETI contradicts with the number of EU headcounts in Brussels who have counted approximately 1000 formally constituted associations (Greenwood, 2011, p. 69). It is difficult to make statements about the actual number of business associations in Brussels since the registration in the ETI database is not obligatory. Furthermore, it might be possible that the headcounters overestimate the number of associations and involved

³ The ETI was launched by the Commission on 9 November 2005 and is covered by the Green Paper as key component. The Green Paper set the Commission's minimum standards for consultation and introduced the publication of data on beneficiaries of EU Funds (European Commission, 2006).

perhaps defunct or 'post box number' associations in their calculations (Greenwood, 2011, p. 69). Due to the lack of evidence, one have to assume that the truth lies somewhere in between.

Lobbying activities of companies are restricted insofar that they have only a few means to exert pressure on Commission officials to reinforce their demands. Since Commission officials are not devoted to reelection by constituency interests, access to them depends on their abilities to supply the features demanded by the Commission. Consequently, firms have to extent their corporate strategies by addressing towards national governments to affect consensus between the Commission and the member states regarding the policy-making process. Furthermore, firms can also present their request to the EP which has acquired increased competences in terms of interest representation in the last 20 years. Even though national Parliaments as well as the EP are able to influence the policy-making process by using their right to co-decision, the Commission stays the most important actor in the interchange with corporate lobbyism (Woll, 2009, p. 282).

4.4 Preliminary Conclusion

During the last 20 years, business political activity has moved towards the European Institutions. In parallel, a distinct partnership between business and governance has emerged into an exchange relation founded on resource dependency (Bouwen, 2009, p. 22). The Commission as one actor in the policy network calls for specialized technical expertise to develop a policy proposal which satisfy the Parliament and the Council. Companies as the other actors in the network respond to the Commission by supplying the requested information and become in return able to influence the contents of policy proposals.

In a conceptual view basing on Bouwen's ToA, corporate lobbying can be understood as an exchange relation between companies and the EC as the following figure illustrates.

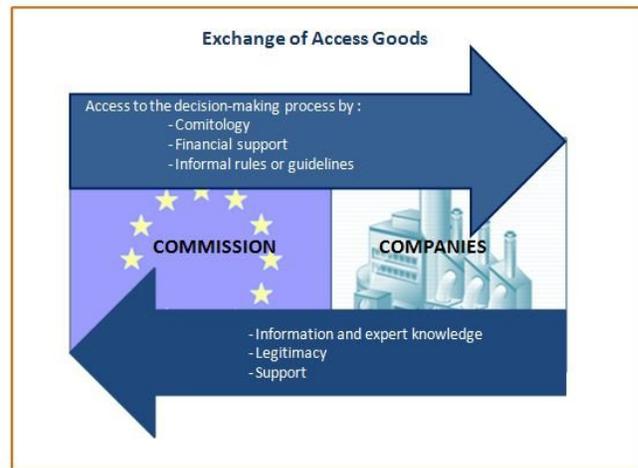


Figure 1: The Exchange relation of Companies and the European Commission (own illustration)

Even though the EU political institutions is particular dependent upon engagements with organized interests and make themselves highly accessible to them, a dominance of interest groups in the policy-making agenda is prevent by the existence of multiple access points of interest mediation. Greenwood (2011) states that "the multi-level governance nature of the EU naturally facilitates institutional insulation and pluralistic outcomes because decision-making is so fragmented" (Greenwood, 2011, p. 4). Accordingly, he argues that "no one single type of interest would ever be able to 'capture' one of the main decision-making institutions, let alone the entire political system" (Greenwood, 2011, p. 4).

Nevertheless, the explosion of lobbying in the last decades, especially by multinational companies, has raised the concerns of EU institutions about transparency in the EU policy process. Critics fault the obvious direct funding of collective arrangements or the ad-hoc dissolving of alliances for their own individual access (Coen, 2009, p. 160). Consequently, the claim for more surveillance and transparency becomes louder and louder; not least because of cases like the Commission's light bulb decree which shall be presented in the subsequent chapter.

5. CASE STUDY

The bachelor thesis in hand aims to apply the ToA on the implementation of Regulation 244/2009 in March 2009. This case shall be examined regarding the institutional goods OSRAM and Philips supplied to the Commission in order to get access to the decision-making process. The following chapter is structured in four sections, each of them trying to answer subsequent guiding questions which shall evaluate the Regulation blessing and the role OSRAM and Philips played as deliverer of the demanded access goods. Additionally, the benefits the Commission gained from the involvement shall be discussed.

5.1 The Commission’s Light Bulb Decree – Blessing or Curse?

The Commission released the proposal for Regulation 244/2009 after consulting the Ecodesign Consultation Forum which was convened by the Commission in June 2008. For the purpose of assisting and advising the Commission for the implementation of Directive 2005/32/EC, the forum should give opinions and recommend appropriate measures (Official Journal of the European Union, 2008b).

Among all applicants who have been interested to join the forum, the Commission appointed one representative from each Member State and one representative from each European Economic Area Member State. Furthermore the forum consists of a number of representatives of interested parties who are concerned with the topic in any sort (Official Journal of the European Union, 2008b). Altogether the forum comprises 88 consultants of which 42 are members of national parliament, 38 are companies or industrial associations, eight Commissioners, and one civic society interest group, namely the WWF (European Commission, 2007).

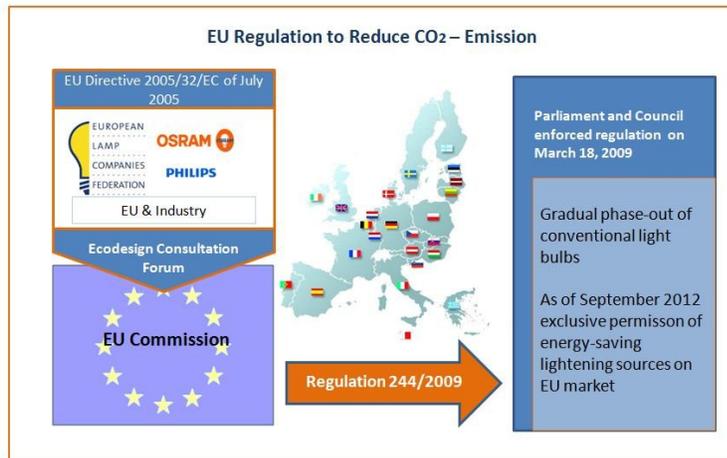


Figure 2: Implementation of Regulation 244/2009 (own illustration)

The Commission justifies the ban of conventional light bulbs by maintaining that a reduction in the electricity consumed will lead to lower energy costs for private households as well as for industrial consumers. Moreover, the Commission emphasizes that a phase-out of incandescent light bulbs will lead to a reduction of greenhouse gas emissions which are attached to the conventional electricity generation basing on fossil fuels like carbon or gas (European Commission, n.d.). Nevertheless, the Commission’s decision to ban incandescent light bulbs has come under fire for several reasons which shall be explained in the following.

The professional journal *Zeitschrift für Energiewirtschaft* published an article written by Manuel Frondel and Steffen Lohmann (2010) which demonstrates that the use of energy-saving light bulbs instead of incandescent bulbs is not economical rational. The authors name the legal prohibition of conventional light bulbs “a superfluous regulation” (Frondel & Lohmann, 2010, p. 247) for several reasons.

As main important point, the regulation does not lead to a reduction of carbon emissions. Admittedly, the decreasing electricity consumption caused by LED lamps conduces to less electricity production and therefore to fewer CO₂-emissions in the electricity sector. Nevertheless, due to the coexistence with the Emission Trading Schemes that allows companies to trade with the “right to pollute”, the regulation causes simply a shift of emission instead a real reduction (Frondel & Lohmann, 2010, p. 248).

Furthermore, it cannot be excluded, that the use of LED lamps results in what energy economical literature calls rebound effect. This means the phenomenon that consumer behavior changes towards an energy-wasting attitude as a result of energy efficient

improvements. For example, private households being conscious that LED lamps occasion less consumption cost than conventional light bulbs, do not switch off the lights or let purposely burn more lamps as they actually used to do when they had conventional light bulbs. Frondel and Lohmann (2010) prove their assumption with reference to a survey⁴ conducted in 2008 in which 15% of the 544 polled German households stated to extend the lightening times (Frondel & Lohmann, 2010, p. 249).

The average light expectation of LED lamps is 6000 hours and therefore six-times higher than a conventional light bulb. In view of the longer life-cycle, it can be state that the higher energy efficiency of LED bulbs enables distinct cost benefits – but just given that the usage intensity is relatively high. The purchase of a LED bulb is an initial additional expenditure that becomes profitable by long-term energy savings in the course of times. However, the investigations by Frondel and Lohmann (2010) confirmed that the estimated service life of LED bulbs in private households is too limited to causes cost benefits. Thus, the high purchase price relative to conventional light bulbs might only pay off after very long time spans. The purchase of LED bulbs is therefore not economical rational (Frondel & Lohmann, 2010, p. 249).

A crucial point of criticism is the mercury content. The United Nations forbade the technical use of mercury in 2009 and, in this way, banished all mercurial domestic appliances from all households in the international community (BMU, 2009) – excluding LED lamps. The EU Directive on the restriction of hazardous substances in electrical and electronic equipment (2002/95/EC) generally forbids mercury in electronic equipment, but permits “mercury in compact fluorescent lamps not exceeding 5 mg per lamp” (Official Journal of the European Union, 2003, p. 5) – an amount which would denature 5000l of water (Mayr, 2012).

The Flemish Institute for Technological Research, short VITO, was commissioned to explore the European lighting market before the Regulation 244/2009 was proclaimed. Two representatives of VITO joined the Ecodesign Consultation Forum. Albeit, the institutes’ study bases on a sample of 5 different lamps and has therefore does not provide empirical evidence. Furthermore, the EU induced measurements only considered the liquid constituents even though the gaseous ones are particularly dangerous (Mayr, 2012).

Consumer protectors are warning that, during operation, energy-saving lamps emit toxic fumes that contain hazardous components which may cause cancer. These toxic fumes become especially dangerous when a lamp breaks (Welt, 2011). According to Gary Zörner,

⁴ REMODECE (2008) Residential monitoring to decrease energy use and carbon emissions in Europe: Survey results. Retrieved June 18, 2012 from: <http://remodece.isr.uc.pt/>

chief executive of the LAMU, the fumes can remain in the human organism for years, attack the brain and cause muscle cramps. Long-term effects of inhaling these fumes are insufficient studies yet; however, persons concerned suffer from alopecia, muscle cramps, and lack of concentration.

Besides the risks for human health, mercury has detrimental effects that for the environment. Since a final repository for mercury does not exist in Europe, the question of disposal arises. The current legal situation prescribes manufactures to take discarded lamps back; nevertheless, the further procedure is unsettled. According to estimates, a billion of energy-saving bulbs have to be disposed in the next years and a lot of them will potentially dispose of them straight into household waste contaminating drinking water with toxics (Mayr, 2012).

5.2 In How Far Could OSRAM and Philips Deliver the Demanded Access Goods?

In the Ecodesign Consultation Forum, OSRAM was represented by Dominick Ortmann and Philips by Dirk Smeyer. Additionally, both companies are members of the European Lamp Companies Federation (ELC) which is an international non-profit industry association representing the leading European lamp manufacturers and had four chairs at the negotiation table (European Commission, 2007). But what qualifies OSRAM and Philips to serve as provider of policy relevant information in those forum meetings; or, in other words, why did the Commission grant both firms access to the policy-making process?

First, with reference to their organizational form (Bouwen, 2002a), OSRAM as well as Philips satisfy the requirements necessary to be an adequate “exchange partner” for the commission. An essential feature of a company’s organizational form is size and the quantity of resources.

5.2.1 Organizational Form

Both, OSRAM and Philips are world leader in lighting and are characterized by their huge size: OSRAM employs approximately 41,000 employees worldwide and supply customers in 150 countries worldwide (OSRAM AG, 2012). Philips occupies around 128,000 employees worldwide (Philips, 2012). Being multinational concerns, OSRAM has 44 production sites in 16 countries (OSRAM AG, 2012) whereas Philips operates in more than 100 countries

(Philips, 2012). Furthermore, OSRAM as well as Philips records high revenues. In the 2011 financial year, OSRAM worked up a turnover of 5 billion Euros (OSRAM AG, 2012); Philips achieved sales figures of 22.6 billion Euros (Philips, 2012). Correspondingly, both companies have sufficient resources at their disposals to engage politically in Brussels. In addition, both companies benefited from the advocacy coalition they formed together with the ELC. At least their organizational forms make OSRAM and Philips appropriate consultants for the Commission; however, they have to meet the Commission’s basic needs for information, legitimacy, and support.

5.2.2 Supply of Information

As world leader in lighting, OSRAM as well as Philips are equipped with a specific expert knowledge about the latest technological developments, characteristics of the market and how policy implementation would affect the behavior of the different market player. As multinational companies OSRAM and Philips have not only professional expertise about their home markets, but also about external markets

Thus, both companies can provide reliable information to the Commission.

5.2.3 Supply of Legitimacy

Furthermore, it is questionable how OSRAM and Philips contribute to the Commission legitimacy. Beforehand one can state that EU Directive 2005/32/EC was backed by a broad majority of EU citizens since environment protection and sustainability are common values shared by the whole Union. Energy-efficient products are not only for the benefit of greenhouse gas production, it is also in the interest of customers in Europe who wants to save money. Following this argumentation line, one can assume that the prohibition of conventional light bulbs would have been accepted by a large consensus; however, it remains doubtful if the European population supports this regulation. Even though, energy-saving lamps have been a well-known alternative to incandescent light bulbs for years, only 11 % of 544 polled German households used energy-saving lamps in 2007. According to the sample, lamp aesthetic, high purchase price as well as poor light quality restrain consumers to buy energy-saving lamps (Frondel & Lohmann, 2010, p. 251). Most of customers perceive the Commission’s light bulb decree as governmental harassment and not as the will of the People. In the documentary report, EU Parliamentarian Holger Kraemer is complaining about the Commission who approves apparently unreflective all proposals that advances

the cause of sustainability. According to Krahmer, it is wrong to believe that “green lobbying” is automatically “good lobbying” (Mayr, 2012). Under the pretence of environmental protection often hide corporate interests concerning primarily possible profits. In the context of legitimacy as access good, the participation of OSRAM and Philips in the forum is difficult to evaluate. Unlike legitimacy, the mean of both companies as political relevant actor is less ambivalent.

5.2.4 Supply of Support

OSRAM as well as Philips can be considered political relevant since they are companies with significant market power. As already described in point 5.2.1 both firms are dominant employers for thousands of employees in whole Europe. Commerce in the electronic and lighting sector is dependent on their production. Attributable to their heavy trading, both companies are important players, not only for their origin countries Germany and the Netherlands, but for the whole Union. Consequently, the Commission benefits from OSRAM’s and Philips’ support as political relevant actor when submitting the proposal to the Parliament and the Council.

5.3 Instead of a Result – What Does the Commission Gain from It?

Due to the Commission’s decision to include OSRAM and Philips in the Ecodesign Consultation Forum, the Commission could gain useful information and support for the policy-making process. The impact of both companies to increase legitimacy is debatable; nevertheless, one can state that the presence of diverse interest groups will basically contribute to the accountability of Commission’s proposal. It is not the participation of the companies that reduces the value of democratic governance; it is rather the procedure itself (Mayr, 2012). The problem might be that the consultation forums not only discuss or exchange expert views, they also are actively involved in the policy-making process. Within the Co-decision procedure, the Parliament can, by absolute majority vote, block a proposed legislative measure. As long as the Parliament does not exercise its right of veto, comitology decision will be automatically transferred into a regulation and therefore into European law (Eurofund, 2012). On the prohibition of conventional light bulb has never been voted (Mayr, 2012).

The European customers are far from pleased about the forced introduction of energy-saving light bulbs. The internet is full of complaints, from consumer forum through to scientific reports,

On the other side, the Commission was under increasing pressure to adopt measures that fulfill the requirements of Directive 2005/32/EC. Press spokeswoman of the European Commissioner for Energy, Marlene Holzner, concedes that it would be naïve to believe in energy-efficient lamps as “final solution” and best practice to solve climate issues. According to her, energy-saving light bulbs have to be seen as a part of several individual measures such as energy efficiency scale for washing machines, dryers, and refrigerators or promotion of renewable energy sources (Mayr, 2012). From this perspective and true to the maxim that “many a mickle makes a muckle”, one can argue, the Commission rather do the wrong than doing anything at all.

In fact, it is difficult to examine how the Commission actually provided access to OSRAM and Philips. Even though the list of participants in the Eco-design Consultation Forum is accessible on the Commission’s homepage⁵, the procedure by which companies and business association can apply is not transparent and comprehensible from an external view. Moreover, the extent in which OSRAM and Philips have contributed to Regulation 244/2009 is not measurable.

In consideration of the presented case, the ToA is obviously too short-sighted to understand the complex net of institutional mechanisms that granted OSRAM and Philips access to the policy-making process of the Commission. The ToA solely explains how and to what extent companies can access their resources to political institutions. Moreover, the theory cannot give empirical evidence about how the Commission as receiver of access goods act and react. Important questions such as “Which measures had been adopted by the Commission to encourage private participation?”, “What kind of access goods did the Commission need?”, or “How did the Commission used the received information?” remains open.

Finally, an unbiased analysis of private interest representation in the policy-making process regarding the Commission’s light bulb decree requires additional theoretical approaches.

⁵ The meeting documentation of the Eco-Design-Consultation Forum can be retrieved from http://ec.europa.eu/energy/efficiency/ecodesign/forum_en.htm

6. CONCLUSION

The last chapter shall summarize the findings in regard to the overall research question posed in the introduction and shall further critically assess the research design. In the end a short résumé and outlook shall conclude the bachelor thesis in hand.

6.1 Findings

In order to answer the research question, a causal relationship between the presence of business interest groups and benefits for the Commission can be substantiated: The Commission profits from the representation of interests by corporate lobbyism since it enriches the decisional process by providing information and expert knowledge, legitimacy, and support.

During the last 20 years, EU institutions have become political entrepreneurs seeking to encourage greater interest participation. Consequently, diverse interest groups have learned to “exploit the multiple opportunity structures as a given policy wends its way through the often long drawn-out EU policy cycle” (Coen & Richardson, 2009a, p. 12). The increased participation of sophisticated private groups as multinational companies fans the fear of a “corporate Europe” in which companies greedy for profit influence politics and therefore the daily life of the EU population. However, in respect to answering the research question, the case of Regulation 244/2009 substantiates that business lobbying is for the benefit of the Commission.

According to the ToA, both sides, the European Institution and companies profit from the exchange since the Institutions acquire the information and expertise necessary to formulate politics, while firms get in contact with policy-makers (Bouwen, 2001; cited in Marziali, 2006, p.23). “Interest representation brings more advances for EU institutions – in terms of providing information, carrying issues between institutions, selling EU policies to national authorities and legitimating the policy process – than disadvantages” (McLaughing & Greenwood, 1995; cited in Marziali, 2006, p.39). In line with many scholars, one can argue the lobbying increase the input legitimacy, the democratic decision-making at the European level, on the one hand, and the output legitimacy, the EU’s general efficiency and effectiveness in achieving citizen’s goals (Marziali, 2006, p. 37).

Particularly in the very difficult field of Energy policy, the Commission feel compelled to make a move. Composed of different policy traces – part economic policy, part environmental policy, and part security policy – moving in different directions, the area of EU energy policy has developed unevenly will continue to do so in future (Buchan, 2010, p. 378). Moreover, Climate Change is challenging the Commission to tackle the harmonization of energy politics in order to strengthen its role as the “Union’s main external negotiator on climate change” (Buchan, 2010, p. 378). Regulations as the ban of conventional light bulbs may only be a drop in the ocean but measures like this will in the long term support the Commission’s seek for centralization.

6.2 Critical Assessment

As already anticipated in paragraph 2.2, the ToA has suffered from several weak spots, but also the methodology need to be scrutinized closely in order to prove if the findings have empirical evidence. Thus, the following section shall evaluate the research design applied in the bachelor thesis in hand. In general, data collection shall “maximize the validity of the measurements [and] ensure that data-collection methods are reliable”. Moreover, “all data and analysis should, insofar as possible, be replicable” (King, Keohane, & Verba, 1994, p. 24). In order to answer the research question, the bachelor thesis in hand makes only use of observational data provided by taking the case of Regulation 244/2009. Descriptive inference shall be granted by collecting as many data as possible since “the more observable implications which are found to be consistent with the theory, the more powerful the explanation and the more certain the results” (King, Keohane, & Verba, 1994, p. 24). For this purpose, the chosen literature review is suitable to investigate patterns and trends from the past and therefore to premature conclusions for the future. Furthermore, the conduction of a case study as qualitative method enriches the empirical significance.

In respect to the empirical findings of the bachelor thesis in hand, the research question can be sufficiently answered. However, case studies usually suffer from a low internal and external validity. According to Shadish, Cook and Campbell (2002) internal validity exists when the co-variation between an independent variable X and a dependent variable Y illustrates a causal inference between X and Y. For this reason three conditions are required: First, a time order has to be established, secondly X and Y need to co-vary and thirdly, this relationship between X and Y shall not be explained in terms of some third variable.

Since the research design of the bachelor thesis in hand lacks a time dimension, the temporal precedence is ambiguous. Neither the findings of the literature review nor the findings of the case study can satisfy external validity defined as the extent to which the presumed causal relationship may be generalized to and across alternate measures of the cause and effect and across different types of persons, treatments and outcomes. Although the study merely presents a 'snapshot' of lobbying in Brussels at a specific point in time, results are not static and time-bound. A causal inference between lobbying and benefits for the EC can be substantiated.

6.3 Résumé and Outlook

Indeed, lobbying can be seen more than the sheer drawing of EU policy-maker attentions to own preferences; further, it is a mechanism through which the EU institutions emit their monopoly on influence in exchange for information and legitimacy. The political input and technical suggestions as well as feedback and support that the institutions, particularly the Commission, receive from business interest groups can be necessary and sometimes even vital for the whole policy-making process in the EU. Nevertheless, lobbying is primarily an instrument for companies and business groups to represent their priorities and influence the decisional process.

As the case study exemplifies, legitimacy of EU decisions in which private interests are involved are highly controversial. Moreover, participatory governance in the EU bears the risk that "transferring power to the interest-group system [...] would serve mainly to strengthen already powerful actors that represent concentrated interests equipped with an abundance of access goods" (Lindgren & Persson, 2011, p. 87). Interest representation has become under greater scrutiny as it has been obviously for many that big business uses direct lobbying to further its own individual access (Coen, 2009, p. 160).

In order to prevent a "corporate Europe", the whole EU policy-making process – starting with agenda-setting and finishing with policy-implementation – needs to be more transparent and permanently monitored and regulated. The European Transparency Initiative (ETI) launched by the Commission in May 2006 has been the latest attempt to shape interest activity in the EU (Bouwen, 2009, p. 31). In accordance with the ETI, a public register for all interest representatives who seek influence from EU institutions was set up

Conclusion

in March 2007. Although this is a step forward to transparency, the registration is voluntary and clear rules on what information registrants would have to supply are still missing (Bouwen, 2009, p. 32). The interaction between EU institutions and companies is still determined by informal guidelines what has to be changed into clear and concrete rules. The ultimate aim of EU politics should be to obtain the people's trust and therefore their legitimacy in order to create a European commonwealth supported by its citizens. This will be only possible if the EU accomplishes the objectives Sammy Finer, founder of British pressure group studies, proclaimed (Finer, 1958 cited in Coen, 2009a, p.12) –

“light more light!”

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8. Declaration of Academic Honesty

I hereby declare that the bachelor thesis in hand on the topic

“Corporate Lobbyism in Brussels

The institutional benefit of interest representation in the policy-making process using the
example of the Commission’s Light Bulb Decree”

is the result of my own independent work and makes use of no other sources or materials
other than those referenced, and that quotations and paraphrases obtained from the work
of others are indicated as such.

Münster, 10th of July, 2012

Anna Wagner