The diminishing power of big business

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The claim that big business dominates EU policy-making and hence has too much power is a familiar one. The typical argument put forward is that because big business has more money than organizations representing wider citizen interests, it is able to commit significantly more resources to lobbying decision-makers. This narrative is seemingly borne out by the permanent presence in Brussels of government affairs offices from most large European firms, along with a host of legal and public affairs consultancies, which mainly provide support to business. In addition, big business is said to benefit from close relationships with their respective national governments, with this support leading to favourable EU decision-making via the Council.

In contrast, I argue that the power of big business within the EU has become progressively more constrained. In recent years, big business may even have become structurally disadvantaged compared to organizations with an anti-business agenda that claim to represent the interests of ordinary citizens. The reasons, which I will explain in more detail, are both historic and political. The effect is to prejudice the policy debate, and as a consequence decision-making has become skewed in favour of anti-business citizen organizations – which naturally have a strong interest in keeping the myth of business dominance alive. The selective use of examples of when business achieves its policy goals is commonplace, and feeds into a more general anti-corporate rhetoric. Yet, Brussels is also home to a great many flourishing, well-resourced, and influential anti-corporate NGOs, centred on the Square de Meeûs.

The lobbying process

At a fundamental level, organized interests' actions in influencing policy-making, which is a tangible expression of power, is not simply a case of how many more euros one side puts behind its argument – at least not above the threshold of having sufficient resources to actively contribute to the debate. And, with more than 900 permanent NGOs with offices in Brussels (EU Transparency Register), civil society is hardly left unrepresented (Greenwood, 2017). In fact, increases in spending are often associated with a lobbying setback, for example, the post financial crisis increases in spending by businesses within the financial sector were very much a defensive act following only very limited success in reducing the cost of the initial regulation.

Moreover, the domination of policy-making by any one section of society is typically associated with closed policy-making within a single institution. In contrast, the EU's political system has evolved so as to place multiple constraints on the domination of policy-making by any one institution, and by extension one section of society. Business certainly plays an active role across many areas of policy-making, but on controversial issues that it takes a position on, it encounters strong and highly credible opposition. As a result, in comparison to organized interests that purport to represent the interests of the citizen, for example consumer groups, big business is frequently on the losing side (Dür et al. 2019)

Part of the explanation for why business power is the focus of popular concern, and on occasion the subject of conspiracy theories, lies in the still essentially private or undisclosed nature of lobbying, along with apprehension over the perceived effect of unconstrained power. This naturally leads to a certain public and political unease, and so it should. The health of democratic decision-making depends on such vigilance. But at the same time, the incorporation of societal interests into the process is vital for the quality and legitimation of public policy, a factor which is largely absent from the public discourse on lobbying. This of course makes it easier to stereotype and even demonize big business.

But in reality, today’s EU policy space contains a staggering range of organized interests, which in number and variety considerably exceed that found within any member state capital. Their principal objective is to influence legislative outcomes on issues that directly affect them. This is typically done through the transfer of policy relevant information to politicians or bureaucrats that otherwise would not be informed. Policymakers require this information in order to successfully transform their political goals into effective legislative outputs (Austen-Smith, 1993; Ainsworth, 1993; Lohmann, 1993). This is a particularly important function in the EU context as its institutional capacity relative to the policy-making task is low. As such, the lobbying process provides a direct non-partisan opportunity for societal interest to be heard, inform, and through their participation legitimise policy decisions. It also provides a means to expose both abuses of the system by officials, and the capture of a policy area by any one section of societal interests, including big business. This essentially pluralist conception of interest representation assumes that if an organized interest attempts to advance its own private interest over the interests of a wider public interest, a countervailing power will emerge (Truman, 1951).

The pendulum swings in favour of citizen groups

For much of the early development of the EU, big business was successful in advancing its own private interests, and was therefore systematically more influential and hence more powerful than other societal actors. During the late 1950s, business appeared to conform to the neo-functionalist logic by successfully promoting regulatory spillover from sectors of the economy where a European level competence existed to areas where it had not (Haas, 1958). Again, following the economic slowdown of the 1970s, multinational corporations aided by an expansionist Commission successfully supported market integration as a remedy for economic stagnation (Sandholtz and Zysman, 1989). This activity appeared to conform to Olson's (1965) logic of collective action through which societal groups with concentrated interests, such as big business, triumph over diffuse societal interests that are encumbered by many non-contributing free riders.

However, Olson's theory failed to explain the extraordinary growth in mass movements, such as environmental and women's rights organizations. He misjudged the power of ideological motivation, and did not foresee that diffuse interests would successfully self-define themselves as defenders of the public interest (citizen groups), and that to maximize their leverage selectively align with concentrated interests, for example, with exporters in pursuance of free trade (Trumbull, 2012). Moreover, Becker (1983) has shown that when a concentrated interest receives a certain level of policy benefit, a tipping point will be reached whereby diffuse opposing groups, such as consumers, will organize. The result will be a restoration of equilibrium between opposing interests.

The catalyst for such realignment by the many self-styled citizen groups was the shift in competences across a range of policy areas from the national level to Brussels during the 1990s, following the Single European Act. The transformation did not take long, and as early as 2001 there were more than 300 registered citizen groups in Brussels (Greenwood, 2017). Together these groups present a formidable challenge to business interests across the breadth of EU policy-making. The collective participation of non-business groups has been highly beneficial for the quality of European policy-making. It also enabled the Commission as the agenda-setting agency to formulate policy proposals that would survive the subsequent legislative process. This is because high-quality policy information from across the range of organized interests is required in order to increase the likelihood of a proposal overcoming opposition from both the Council and the European Parliament (Crombez, 2002).

This suggests that the system of interest representation at the critical policy formulation stage had become more or less pluralist in nature, and as such the first mover advantages that businesses enjoyed had been – as Becker (1983) would have anticipated – cancelled out. However, this assumption rests on the premise that the Commission acts as a neutral arbiter, whereas it is commonly accepted that when policymakers seek input to develop legislative proposals, they draw heavily from lobbyists that share their political goals (Sabatier and Jenkins-Smith, 1993). But in respect to the Commission, it is difficult to discern an enduring political outlook, although it is straightforward to identify a long-term political motivation. Analogous to Niskanen's (1971) model of bureaucratic budget-maximization, the Commission has consistently aligned itself with interests that serve to maximize its bureaucratic reach and power. With the single market project largely completed during the 1990s, opportunities for the Commission's future bureaucratic advancement could only come from regulating the newly created market, thereby putting it at odds with the interests of big business. In so doing this illustrated the expedient rather than enduring nature of the Commission's former alliance with big business. What was to follow would be an explicit politicization of EU policy formulation which was and continues to be legitimized through the selective use of favourable expertise (Boswell, 2008). This instrumental use of knowledge necessarily advantaged the interests of self-styled citizen groups that define themselves against the interests of big business.

Moreover, in addition to the Commission's promotion of groups which advance an explicitly anti-business agenda, the Commission actively bankrolls many of these NGOs. For example, the European Consumer Organisation (BEUC) receives an operating grant of €1,641,750 along with other EU funding of €1,047,271 which together represent 49 per cent of its annual budget (BEUC, 2018) – up from 45 per cent in 2013. These groups occupy a privileged position in EU decision-making, and the information they provide serves to strengthen the Commission's informational advantages over the Council and European Parliament. I argue that this activity, combined with the coincidence of the Commission's bureaucratic ambition which resulted in an alignment with anti-business interests, takes us beyond Becker's tipping point to a new equilibrium that favours anti-business citizen groups.

This situation has also made it much easier for more extreme anti-business groups to organize and be heard. They may be excluded from EU subsidies given that they lack the credibility necessary to directly legitimize the Commission's policy agenda. But the consequence of their increasing presence on the fringes of the policy debate is that it has allowed the Commission to frame policy proposals as more centrist than would have been the case, in effect altering the parameters of the policy debate and making it easier for national governments to agree on positions that are further away from business than would have been possible. In return these more extreme groups benefit at the expense of business as the Commission's policy agenda is pushed in the direction they favoured. Moreover, these gains are not one-offs. Mirroring the past process of functional spillover through which business had initially gained success, once a citizen-friendly regulatory bridgehead was formed in one sector, a process of incremental advancement has occurred which, for example, was the case following early successes in the field of environmental regulation.

What about the EU's legislative institutions? The common perception had been that the Council is closely aligned to business interests. However, recent research has falsified this claim (Dür et al. 2019). It seems that elected member governments take their responsibility to represent a range of societal interests very seriously, and with the majority of governments formed by coalition there will also be a range of party interests to accommodate – as such, the idea that the Council has been captured by business interest seems unlikely, although, in comparison to the Commission, business interests may well be more welcome. In contrast, it is now well established that the European Parliament provides strong support to citizen groups (Kohler-Koch, 1998; Pollack, 1997). Indeed, its transformation from consultative body to equal co-legislator (Tsebelis and Garrett, 2000) was facilitated by parliament's fervently argued case that it alone provides a direct link to the interests of the ordinary citizen.

The legislative effect of parliamentary support for anti-business citizen causes is significant. To illustrate this, Dür et al. (2019) contrast the success of business interests in achieving their policy goals on policy areas where the parliament acts as co-legislator (Ordinary Legislative Procedure) with policy areas where its legislative powers are reduced. The results are clear-cut; compared to citizen groups, business is significantly less successful at achieving its policy goals when parliament is at its most powerful. As if to compound the disadvantage that business suffers, the entry into force of the Lisbon Treaty (2009) significantly extended the policy areas where parliament is legislatively equal to the Council, thereby providing a further example of the increasingly structural nature of big business's comparative deficit in policy influence (power). This disadvantage is not simply contingent on the level of EP involvement. The analysis by Dür et al. also makes clear what the forgoing analysis has set out. Across the breadth of policy-making, business is routinely less successful than citizen groups at achieving its policy goals. Interestingly, recent research carried out in the United States has also cast doubt over the alleged domination of policy-making by big business (Hojnacki et al., 2015). And, that's without the considerably higher levels of funding that many non-governmental organizations (NGOs) receive from the EU.

Conclusion

In conclusion, at the current phase of EU policy-making, the power of big business is relatively weak. This differs markedly from the popular narrative, which is informed by both the legacy of early business dominance over EU policy-making, and a widespread concern over the consequences that might follow if business power was unchecked. But it is also as a result of concerted attempts by anti-business citizen groups to exploit the fear of rampant business power and claim to be the underdog – an opposing strategic claim by big business simply would not be plausible. That this debate plays out across the familiar liberal statist economic fault line tends to obfuscate the rational assessment of the role and relative power of organized interest across EU policy-making. However, the forgoing analysis has shown that power is not exercised in a vacuum, and if its manifestation is achieving policy success, then in the EU case institutions matter – or put another way, having a powerful ally makes you more powerful. Business power is considerably constrained because its deregulatory goals are not compatible with the Commission's bureaucratic ambition; and the European Parliament's overriding concern is for democratic legitimacy, which explicitly means aligning with citizen cause groups that are invariably opposed to the policy position taken by big business.

Bibliography

Ainsworth, S. (1993) 'Regulating lobbyists and interest group influence', *Journal of Politics* 55(1): 41-56.

Austen-Smith, D. (1993). 'Information and influence: Lobbying for agendas and votes', *American Journal of Political Science* 37(3): 799-833.

Becker, G.S. (1983) 'A Theory of Competition Among Pressure Groups for Political Influence', *Quarterly Journal of Economics*, 98(3): 589-610.

BEUC (2018) http://www.beuc.eu/about-beuc/financial-information. Accessed 1st March 2020.

Boswell, C. (2008) 'The Political Functions of Expert Knowledge: Knowledge and Legitimation in European Union Immigration Policy', *Journal of European Public Policy* ,15(4): 471-488.

Crombez, C. (2002) 'Information, Lobbying and the Legislative Process in the European Union', *European Union Politics*, 3(1): 7-32.

Dür, A., Marshall, D. and Bernhagen, P. (2019), 'Interest group success in the European Union: When (and why) does business lose?', *Comparative Political Studies*, 48(8): 951–983.

Greenwood, J. (2017) *Interest Representation in the European Union*, 4th edition, Basingstoke: Palgrave McMillan.

Hojnacki, M., Marchetti, K.M., Baumgartner, F.R., Berry, J.M., Kimball, D.C., and Leech, B.L. (2015) 'Assessing Business Advantage in Washington Lobbying', *Interest Groups & Advocacy*, 4: 205–224.

Kohler-Koch, B. (1998) 'Organised Interests in the E.U. and the European Parliament', in Claeys, P. H. and C. Gobin and P. Winard (eds), *Lobbying, Pluralism and European Integrations*, European Interuniversity Press.

Lohmann, S. (1993). 'A signaling model of informative and manipulative political action', *American Political Science Review,* 87(2): 319–333.

Niskanen, W. A. (1971) *Bureaucracy and Representative Government*. Chicago: Aldine, Atherton.

Olson, M. (1965) *The Logic of Collective Action*. Cambridge: Harvard University Press.

Pollack, M.A. (1997) 'Representing Diffuse Interests in EC Policy-Making', *Journal of European Public Policy,* 4(4): 572-590.

Sabatier, P.A. and Jenkins-Smith, H. (1993) *Policy Change and Learning: An Advocacy Coalition Approach (Theoretical Lenses on Public Policy)*, Westview Press.

Sandholtz, W., and Zysman, J. (1989) '1992: Recasting the European Bargain', *World Politics*, 42(1), 95-128.

Truman, D. (1951) *The Governmental Process: Political Interests and Public Opinion*, New York, NY: Knopf Press

Trumbull, G. (2012). *Strength in Numbers: The Political Power of Weak Interests*, Harvard University Press.

Tsebelis, G. and Garrett, G. (2000) 'Legislative Politics in the European Union', *European Union Politics*, 1(1): 9-36.