

# **The Commission under siege? New challenges in interest representation and economic governance**

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The Commission in an era of politicization: neutral bureaucracy or strategic actor?

**Draft, please do not quote without the permission of the author – comments highly welcome**

## **Abstract**

Observers all agree that Brussels is flooded with lobbyists and that the European Commission is a preferred target as it plays a key role in EU decision-making. The paper will first give reliable data on lobbying in the EU. It examines how the Commission compares to other decision-making bodies both at national and EU level and what makes the Commission so attractive. The data support the conventional image that the Commission is under siege by economic lobbyists. However, a more detailed and in-depth study of the organization and strategies of economic interest groups tells us that we should not take the data at face value. The problem is not so much lobbying overload but how to achieve fair and transparent governance in a highly complex and heterogeneous system of (organized) interest.

# The Commission under siege? New challenges in interest representation and economic governance

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## EU interest group population<sup>1</sup>

It is difficult to assess lobbying density in EU politics. First, many different types of actors are engaged in EU lobbying ranging from organized interest groups such as business and professional associations, trade unions and Non-Governmental Organizations (NGOs) to Public Affairs Agencies, professional consultancies, specialized law firms and self-employed consultants. Other organisations are representing churches and religious communities. Corporate actors, be they public (governments, state owned universities) or private (companies, think tanks, research institutions), may also lobby on their own. Multi-national companies are very present in Brussels and so are representatives of regional, local or municipal authorities. Think tanks, research and other academic institutions have joined the crowd.

Not all actors are located in Brussels. Even European associations may opt to stay in the place where they originally have been founded or where they can benefit from the resources of a strong national member. Brussels does not even host the majority of actors engaged in EU lobbying. As the EU is a multi-level system of governance, the Europeanization of interest representation did not lead merely to a trans-national fusion of interest groups and not even to a concentration of EU lobbying in EU-level organizations. Rather, also national interest actors directly reach out to Brussels. Furthermore, EU institutions are not the only target for EU lobbying. National governments and increasingly also national parliaments are favoured contact partners. Although EU-level organizations also seek the direct dialogue with national institutions, the national level is the main field of action for national actors. Consequently, when trying to estimate the totality of the interest population engaged in EU politics, one has to include all interested actors at the national level and, in addition, also international actors representing stakeholders in third countries or at the global level.

Information concerning the EU interest group population is not easily available. The European Transparency Register is a good starting point to get a first impression concerning numbers and composition of EU lobbyists. In May 2014 the total number of registered organisations was around 6,580<sup>2</sup>. The High Level Group which was set up in 2013 to review the Transparency Register estimated that around 75% of all relevant business-related actors and around 60% of NGOs have registered. On this basis they projected the number of interest representatives operating in Brussels.

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<sup>1</sup> The paper is based on the data generated by two (1999 and 2012) comprehensive survey of business interest associations (BIAs) in France, Germany, Poland (2012), the United Kingdom, and at the European level, as well as of selected companies and EU level NGOs (2012). See Kohler-Koch/Quittkat 2013 and on a series of interviews with German and European industrial branch and sector associations.

<sup>2</sup> <http://ec.europa.eu/transparencyregister/public/consultation/statistics.do?locale=en&action=prepareView> (01.05.2014)

They assumed that each organisation includes on average a staff of five so that they arrived at a total number of more than 32,500 individual lobbyists.<sup>3</sup>

Unfortunately, the Transparency Register is not at all a reliable source of information. Obviously, the readiness to register is pronounced above all among EU level NGOs, which have been very active in supporting its implementation, and according to our own research findings it is also very high among European business associations (BIAs). National BIAs register when they have an office in Brussels. Maintaining an office is a solid indication for giving EU lobbying high priority and when you spend considerable resources to be present, you want to make sure that you fulfill the formal conditions to get informed, to gain access and to be heard. On average, however, registration is not at all comprehensive and according to our survey varies considerably among national associations (see Table 1).

Table 1: Share of respondents registered in the Transparency Register (as of 2012 in per cent)

	EU level NGOs	EU level BIAs	British BIAs	French BIAs	German BIAs	Polish BIAs
<i>Listed</i>	81.0	79.5	23.3	51.2	57.1	11.9

EUROLOB II survey data

Thus the High Level Group’s estimate that around 75% of business-related actors may have registered obviously only applies to EU-level actors. Not only our survey data but also in-depth analysis of German sector associations conveys the message that the share of national business association, even among those claiming to be active in Brussels, is much lower.<sup>4</sup>

Furthermore, the declared numbers of staffs vary considerably and data in the Transparency Register do not stand up to scrutiny. A first indication is that there is often a marked discrepancy between the number of persons said to be engaged in activities falling under the scope of the Transparency Register and the costs incurred for representing interests to EU institutions. Thus it is hard to imagine how a staff of 8 may fit with a budget of 50.000 Euro per year.<sup>5</sup> Interviews reveal clear differences in the handling of information. It turns out that some national business associations opt for specifying the number of staffs employed in Brussels and the budget of their Brussels office whereas others meticulously calculate manpower and financial resources spent on EU lobbying; still others just put down the number of all their employees and the budget earmarked for special activities in Brussels.

Another obstacle to research is that the Transparency Register does not provide information on the development over time. Although the Commission launched the register already in 2008, it was revised and re-launched in 2011 to meet the needs both of the European Parliament and the European Commission. The new register only recently achieved a high level of registration.

<sup>3</sup> Press release: ‘The revised Transparency Register: more information, more incentives, tougher on those who break the rules’. European Commission, MEMO, Brussels, 15 April 2014; [http://europa.eu/rapid/press-release\\_MEMO-14-302\\_en.htm](http://europa.eu/rapid/press-release_MEMO-14-302_en.htm) (01.05.2014); for a detailed analysis see Greenwood/Dreger (2013).

<sup>4</sup> The evaluation is based on the analysis of XXX (final check still to be completed) branch and sector associations in the following industries: the chemical industry, the food and drink industry, the electrical and electronic industry, the mechanical industry, and the metalworking and metal articles industry.

<sup>5</sup> The general secretary of a national association explained the logic behind: “We rather list all our employees than get accused - as it happened to CEFIC – for setting our resources too low.” (check quote)

Comparing the present register with the previous database *Consultation, the European Commission and Civil Society (CONECCS)* does not produce meaningful results.<sup>6</sup> The latter directory had been established by the Commission earlier on to give information on the involvement of interest groups in its consultation process. Entries in the register were also on a voluntary basis and thus did not give a complete picture. But what really makes a comparison difficult is that CONECCS was restricted to non-profit making civil society organisations organised at European level.

A comparable data base would have to include directories of national interest organisations. Such data have been generated by our research project EUROLOB.<sup>7</sup> For a comparative study on EU interest representation we made a comprehensive inventory of business interest associations (BIAs) in 1999 and again in 2012. We included BIAs at the European level and at the national level in France, Germany, and the United Kingdom.<sup>8</sup> Although the number of countries is limited, we can take the development of the interest group system in these countries as a proxy for the development at least in the old - that is in the West-European - member states because these three countries represent different traditions of interest associations.<sup>9</sup> Comparing the inventories between countries and over time it turned out that country specific features persisted but that the national interest group systems have experienced a similar development<sup>10</sup>: The numbers differ but in each country but with the exception of Germany we witness a significant increase of interest associations over time (see Table 2).

Table 2: Interest associations at EU and national level

Associations	Europe	France	Germany	Great Britain
1999	420	350	727	501
2012	486	514	674	718
Change in absolute numbers	66	164	-53	217
Change in per cent	15.71	46.86	-7.29	43.31

EUROLOB II data

<sup>6</sup> For a last (July 2007) modification of the CONECCS data base see

[http://www.powerbase.info/index.php/European Commission CONECCS Database](http://www.powerbase.info/index.php/European_Commission_CONECCS_Database) (01.05.2014).

<sup>7</sup> For more information visit our homepage [www.mzes.uni-mannheim.de/projekte/eurolob/homepage.html](http://www.mzes.uni-mannheim.de/projekte/eurolob/homepage.html).

<sup>8</sup> In 2012 we also included Poland. For address collection we started with well-established directories; in addition we carefully scanned the research literature for names of BIAs and used internet search-engines in order to compensate for inconsistency in data availability. The directories are (with the respective year of publication in 1998 and 20010/2011 respectively) for France: 'Mouvement des Entreprises de France: L'Annuaire du MEDEF. Paris: Medef' and 'Confédération générale du patronat des petites et moyennes entreprises'; for Germany: 'Oeckl. Taschenbuch des öffentlichen Lebens. Deutschland. Bonn: Festland Verlag GmbH; for the UK: 'Trade Association Forum. Trade Associations'. For EU BIAs we consulted Oeckl. 2009: Taschenbuch des öffentlichen Lebens. Directory of public life. Europe, Bonn: Festland Verlag GmbH and the CONECCS/Transparency Register data base. In 2012 we also included Poland using 'Urząd Zamówień Publicznych 2010: Lista organizacji uprawnionych do wnoszenia środków ochrony prawnej w 2010r' and 'Ministerstwo Gospodarki, Departament Analiz i Prognoz 2007: Funkcjonowanie samorządu gospodarczego w Polsce, Warsaw 2007.

<sup>9</sup> For a more detailed argument see Quittkat 2006; Eising 2009.

<sup>10</sup> The number of addressees of our questionnaire in Germany, France, Great Britain, and at the EU level increased from roughly 2.000 in 1999 to 2524 in 2012.

## The intensity of lobbying in the EU

Numbers do not tell us the story of lobbying. In order to take an educated guess on lobbying density we have to take into consideration that lobbying is a matter of intention and resources. European and national associations differ in their profile of activities and in resources measured in terms of budget and man power.<sup>11</sup> EU-level interest groups have the image of concentrating on lobbying. This image is confirmed by our data as 13.1 per cent of European business associations and only 4.6 per cent of national associations declare that they spend hundred per cent of their resources on interest representation. In general, national business associations have a broader range of tasks and invest more resources in providing (individual) support to their members. According to our survey data national business associations spend less than half and European business associations well over half of their resources on interest representation (Table 3).

Table 3: Proportion of resources spent on activities (in per cent)

	Interest representation		Service provision		Market coordination	
	National BIAs	EU BIAs	National BIAs	EU BIAs	National BIAs	EU BIAs
<i>Means</i>	48.82	58.26	39.44	34.41	18.36	18.23
Median value	50.00	60.00	40.00	35.40	15.00	10.00

EUROLOB II survey data - Missing answers excluded

The difference in the share of service provision and market regulation is marked but not as distinct as expected. The difference is more pronounced when we look at specific types of services provided: Both national and European associations are very active in providing statistics and branch information (national BIAs 85.6 per cent; EU-level BIAs 70.1 per cent) but differ specifically when it comes to provide individual services such as legal and economic consulting (national BIAs 56.5 per cent; EU-level BIAs 25.3 per cent). A more differentiated breakdown discloses that national associations are more service intensive than their European counterparts.<sup>12</sup>

Furthermore, a caveat should be raised. Information on resources spent given as a percentage fails to reveal the substantial disparities in the amount of resources involved. This may be best demonstrated by giving an example: *ORGALIME*, the European association in charge of three industrial branches (Mechanical, Electrical & Electronic, and Metalworking & Metal Articles Industries) has (in 2014) a staff of 26 employees whereas the German association of the mechanical engineering industry *VDMA*, representing only one branch in one country has a staff of 430 full-time employees. The discrepancy is due to the fact that the European association is a federation of national associations. Thus it is dealing with a small number of members and, on top of that, it relies

<sup>11</sup> It has to be kept in mind that budget and man power are only a rough indicator to measure the policy capacity of interest groups; for a more differentiated concept of policy capacity see Halpin 2014: 176-195.

<sup>12</sup> According to our survey data national business associations spend their resources (in per cent of their resources spent on services) as follows: statistics and branch information 85.6%, public relations activities 77.3%, education and qualification 66.8%, individual legal and economic consulting 56.5%, market research 49.8%, access to consultancies 48.3%. [\[Annex, p.39\]](#)

heavily on the input of its members. National organisations, except for umbrella organisations, usually have a company membership which is far more numerous and, when the membership is mainly composed of SME, are asked to deliver a broad range of services. This holds true for the above mentioned *VDMA* which serves the interests of about 3.100 companies. Still, *VDMA* is with regard to service intensity a special case; the profile of activities differs considerably among industry sectors and countries.

Another caveat has to be added: Even though EU governance has become increasingly important, national policies still absorb a large part of the lobbying activities of national business associations. Associations find it difficult to put into figures how many resources they spend on lobbying targeted at national as compared to EU policies. Also, the importance of EU policies varies considerably among types of industries. Accordingly, we have to look for a more suggestive indicator of lobbying intensity at EU level.

Contacts with decision-making institutions give more accurate information on interest group activities. Given the increase in number of business associations and also the greater importance of EU policy-making, we expected a higher share of business association eager to contact EU institutions. The survey confirmed our expectations as to the importance attributed to the EU decision-making institutions (Table 4).

Table 4: Changing importance of the EU decision-making institutions

	Commission	Council	European Parliament
Decreased	2.3	4.3	1.9
Remained on the same level	31.9	57.2	23.5
Increased	65.7	38.5	74.6

EUROLOB II survey data - In percent; missing answers excluded (F2)

In contrast to this assessment, contacts to the relevant decision-making institutions have declined over time. Our survey data give an unequivocal picture: “(...) most EU-level and national level political actors are only contacted by less than half of the national business interest associations in the context of EU lobbying.” (Quittkat 2014: 8) Not all types of institutions are equally affected. Thanks to the constitutional upgrading of the European Parliament, the EP and also the national parliaments are the least affected. The decline also varies between the European and the national level. In general, the frequency of contacts to EU institutions is markedly lower than to national institutions.

It would be premature, however, to take these data as evidence for a decreasing intensity of EU lobbying. To the contrary: the data show that those business associations which maintain contact to decision-makers do so more regularly and frequently than in the past (Table 5). This increase in frequency explains why so many respondents (72.7 per cent) declared that competition between interest organisations has increased.<sup>13</sup> Thus, contact frequency and not the number of interest groups looking for contact will tell us more about lobbying intensity in Brussels.

<sup>13</sup> For the development over time and patterns of changing relations see the following section.

## The Commission a focal point of EU lobbying

The European Commission used to be the preferred target for EU lobbying. In the past this held true for any kind of interest groups be they firms, business associations representing the economic interests of their members or citizens groups advocating rights and value based concerns of a diffuse constituency. According to our survey data business associations still consider contacts to the Commission to be of highest importance in order to represent their interests. They rate the working level (from director-general down to the desk officers) the highest and, accordingly, contact are far more frequently the working than to the political level (commissioners and cabinets) of the Commission.

The upgrading of the European Parliament (EP) by the Lisbon Treaty is widely acknowledged but still the importance attributed to the EP does not exceed the importance of the Commission. Contacts to the EU institutions do, however, not exactly mirror the importance attached to the individual decision-making bodies. They also reflect differences in the accessibility of the respective institutions. Like in the past, most BIAs consider the EP and the Commission to be co-operative and to provide easy access to information whereas the Council and the European Council range behind particularly with respect to the access to information.<sup>14</sup> Accordingly, all interest representatives in our 2012 survey have contacts with the EP and around 96 per cent have contacts with the European Commission.

Contact patterns in terms of frequency of contacts have notably changed over time (see Table 5). Above all the EP has gained greater attention. Contacts to committees and rapporteurs significantly increased and also contacts to the individual Members of Parliament and their assistants are far more frequent than before.<sup>15</sup> In 2012 EP committees topped all other EU institutions when measured by the frequency of weekly contacts. The increase in weekly contacts is quite remarkable: contacts to EP committees by national business associations are now almost six times as high as in 1999. European BIAs have intensified their weekly contacts by a factor of five but contrary to national BIAs reduced their monthly contacts almost by half. As a result contacts to the European Parliament are nowadays about as regular and frequent as to the Commission. It is difficult to say, however, if they are of the same quality. Interviews with national branch and sector association give the impression that contacts to the European Parliament is more an affair of public relations and membership promotion than focused lobbying.

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<sup>14</sup> 80.2 per cent of BIAs respondents consider access to information from the Commission not to be difficult. Obviously even less difficult is the access to information from the EP (82.7 per cent). In contrast, 40.1 per cent of BIAs say it is difficult to have access to information from the Council. 2 b, c – p. 9-11.

<sup>15</sup> By comparison the secretariat of the EP has lost importance.

Table 5: Cross-time comparison: Weekly and monthly contacts with decision-making institutions in percent of total contacts

		<i>Commission</i>		<i>Council</i>		<i>European Parliament</i>		
		Top level	Work level	Ministers	COREPER	Committees	MEPs	
Weekly	1999	National BIAs	2.5	10.6	1.7	4.4	4.0	6.1
		EU BIAs	8.4	42.4	0	7.1	8.9	16.0
	2012	National BIAs*	4.1	14.5	3.5	10.8	23.3	13.8
		EU BIAs	6.2	42.4	9.7	9.8	47.1	26.5
Monthly	1999	National BIAs*	8.6	21.8	11.8	15.6	15.5	19.6
		EU BIAs	12.2	24.5	14.3	17.2	25.2	28.0
	2012	National BIAs*	10.3	15.0	11.8	18.3	17.2	19.2
		EU BIAs	17.2	25.9	12.9	16.4	14.1	26.5

EUROLOB II survey data – Annex 1.B, p. 5 - In percent; missing answers excluded; \*without Poland

The working level of the Commission is considered to be the most important for the daily lobbying business. Accordingly, contacts to the individual Directorates General are far more frequent than to the Commissioners or their cabinets. In the interviews BIA representatives confirm that in view of ever more detailed regulation the main purpose of lobbying is to influence EU law making. Lobbying for litigation is also highly relevant for business as the differentiated transposition of EU directives and the gaps in the application of EU law have severe distorting effects on the competitiveness of industry. In such cases BIAs and firms join forces to urge the Commission to make use of its power as the Union’s legal watchdog. Lobbying for funds has not been crucial for business in the past. With the expansion of the budget for research and development, however, lobbying has become more relevant. Business associations usually do not lobby for grants.<sup>16</sup> Rather they want to have a say in the choice and structure of the programmes, the criteria for participation and the thematic priorities of the individual calls. They give forthright support to the concept of public-private partnership to push funding for research and innovation in industrial technologies and make sure that industry has a strong voice.

Both our survey data and interviews confirm the assessment of Pieter Bouwen who presents an insider view from the Commission (Bouwen 2009: 22-26) that legislative lobbying still forms the major part of the associations’ lobbying activities. All interview partners support the common knowledge that successful lobbying has to start early. As one interview partner puts it: “If a formal proposal is on the table, it is too late.” (checking quote) This is the main reasons why they concentrate their contacts on desk officers and the heads of units. BIA representatives are well aware that changes can be made more easily in the initial stage before the desk officer in charge has started to coordinate the proposals with other sectoral services in the Commission and before the corresponding working groups in the Council and the committees in the EP have become involved.

<sup>16</sup> Programmes addressed to associations are the exception. See, however, in the 7<sup>th</sup> Framework Programme Research for SMEs associations; [ftp://ftp.cordis.europa.eu/pub/fp7/docs/research\\_smes\\_assoc\\_en.pdf](ftp://ftp.cordis.europa.eu/pub/fp7/docs/research_smes_assoc_en.pdf) (12.05.2014).

This is the main reason why German business associations maintain an office in Brussels. It gives them the opportunity to have regular personal contacts and to follow more easily new policy initiatives. They consider it imperative to be present in the drafting phase of a proposal. By experience they know that after inter-service coordination and a first exchange of views with the responsible members of the cabinets a policy proposal is more difficult to amend. When it lastly reaches the top decision making level, namely the *chef de cabinet* and the commissioner in charge and finally the college of commissioners, the proposal has gone through so many stages that no one wants to undo the legislative package and once again reopen the negotiations. To be successful in high-level lobbying interest groups must have compelling reasons and even then it takes a great effort to be convincing. All interview partners share the view that high-level intervention has to be the exception in legislative lobbying.

Our empirical findings demonstrate, however, that common belief systems not necessarily correspond to actual behaviour. Although early lobbying is widely praised and the typical advice of any lobbying handbook, our survey data document that only EU-level and German BIAs intervene when the agenda is set whereas all other national BIAs mostly only became active in later phases of the policy cycle (Kohler-Koch/Quittkat 2013: 18).

Furthermore, the number and, above all, the increase in contacts to the top-level of the Commission are not in line with the theoretical argument. The frequency of contacts of both national and EU-level associations is remarkable when taking into account the comparative small number of potential interlocutors (see table 5). It also needs explanation why in 2012 business associations are clearly far more attentive to the political level of the Commission than at the end of the 1990s. The increasing politisation of EU policy-making may be a good reason. In our survey the overwhelming majority of respondents are of the opinion that political rather than technical considerations by EU institutions have increased. However, regression analysis does not confirm that attributing the EU a more pronounced political orientation has an impact on contact behaviour. The frequency of contacts to the top level rather is a matter of staff size (Table 6)<sup>17</sup>.

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<sup>17</sup> Annex 8B, p. 20f

**Table 6: Regression: Frequency of contacts with the Commission – a matter of politization?**

	<i>Commission top level</i>	<i>Commission working level</i>
<b>Constant</b>	<b>1.447**</b> (0.526)	<b>1.995**</b> (0.424)
<b>Politization</b>	0.060 (0.168)	0.136 (0.147)
<b>Budget</b>	0.026 (0.102)	<b>0.243*</b> (0.095)
<b>Staff size</b>	<b>0.559**</b> (0.118)	0.162 (0.120)
<b>Presence in Brussels</b>	0.116 (0.232)	<b>0.595**</b> (0.213)
<b>EU BIA Dummy</b>	<b>0.740**</b> (0.241)	<b>1.130**</b> (0.237)
<b>Adj. R<sup>2</sup></b>	<b>0.292</b>	<b>0.330</b>
<b>N</b>	140	217

EUROLOB II survey data - \*\*significant at 1%-level

\*significant at 5%-level

Standard error in brackets

Two other explanations for high-level contacts can be offered, which are far more convincing. First, long-term policy influence has to start top-down and, secondly, not all activities focus on lobbying. One must bear in mind that legislative lobbying is not the only and sometimes not even the most promising way to influence EU policies. Long before the Commission initiates specific legislative proposals it paves the way for future policies by launching “strategic approaches”. These strategic approaches are meant to give future policies direction. In his study on the cognitive dimension of lobbying Daniel Kitscha (2013) gives theoretical substantiation and persuasive empirical evidence of the high relevance of policy framing.<sup>18</sup>

Framing has become common practice in recent years. It is a proven instrument to design long-term strategies and to arrive at consensus in the EU complex system of multi-level governance where a multitude of public and private actors collaborate. Furthermore, framing is an important management tool to keep the working level of the Commission in line with the political intentions of the political leadership and to ensure the consistency in the Commission’s policy initiatives. In our research we looked into the “Europe 2020” initiative. In December 2009 the European Council called for a strategy programme “in order to improve competitiveness and increase the EU’s sustainable growth potential”<sup>19</sup>. The European Commission gave the strategy substance by defining the major challenges, setting priorities, targets and launching various “flagship initiatives” where the EU and national authorities are asked to coordinate their efforts. Policy road maps” have been adopted to

<sup>18</sup> He examined specific cases in the field of EU technology policy (information and communication). He demonstrates that framing is influential for the design of specific sector policies and also for giving direction to broader political ambitions.

<sup>19</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/111877.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/111877.pdf) (14.05.2014).

develop a regulatory framework which is said to provide optimal conditions for smart technologies improving the competitive position of Europe's industries in the global market. It is a framing process which aims at a joint problem definition and a shared understanding of optimal problem solutions. It links specific policy aims such as energy efficiency to overarching political ambitions like curbing climate change. Once a specific frame has been established and agreed upon by the relevant decision-making institutions and stakeholders, the Commission will translate the policy aims into concrete obligations and regulatory measures. This way climate protection and energy efficiency gives legitimacy to guidelines and later legal obligations for saving energy and eventually for defining efficiency standards for household appliances which all suppliers will have to match in future. It is a telling example how EU decision-making processes have changed and how policies are now developed in cascades (Kohler-Koch 2014:14).

Business associations are well-aware how important it is to take part in the establishment of meta-frames and that this requires close collaboration between industry and the political leadership of the Commission. Industry, represented by business associations and leading companies, has contributed to varying degrees to the framing process. The Electra I<sup>20</sup> and Electra II<sup>21</sup> reports give conclusive evidence of how the Commission and Europe's electrical and electronics industry arrived at a common understanding of the challenges ahead and how best to meet them. General objectives such as stimulating growth and achieving technology leadership have become translated into sector specific recommendations like improvements in the European electricity infrastructure network and project proposals such as investing in cross-national smart grids.<sup>22</sup> Our interview partners in the involved European and national business associations confirmed that they consider the early framing exercise to be a success.

The second reason why associations are interested in direct contacts to the top level of the Commission is organizational self-interest. Darren R. Halpin just recently has reminded us that interest groups are not "single-minded agents for influence" (Halpin 2014: 178). As Lowery (2007: 46) put it: "the most fundamental goals of organizations must be to survive as organizations." Researchers interested in the emergence and survival of associations (Schmitter/Streeck 1999) always acknowledge that their activities are not just confined to lobbying. To attract members they offer different kinds of services, engage in market regulation and they also generate identification. Still, lobbying is the rationale for their existence. But because it is difficult to give substantive evidence for effective lobbying, associations strive to be visible in public and through their presence in the media gain recognition as an important player. Demonstrating that they are on speaking terms with the political leadership in Europe conveys the image of high-level performance and reputation. The ambition of Barroso to considerably strengthen the Commission presidency and to be decisive in setting the policy agenda (Kassim et al. 2013: 166-180) may have supported the drive to high-level contacts. Interviews reveal that there is a latent competition between European and national business associations and between branch and sector organizations concerning the level of contact. It is a matter of standing: The EU branch association considers it to be appropriate to have access to the president of the Commission, EU sector associations aim at having contact to the commissioner

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<sup>20</sup> For the first Electra report see [http://ec.europa.eu/enterprise/sectors/electrical/files/electrereport\\_en.pdf](http://ec.europa.eu/enterprise/sectors/electrical/files/electrereport_en.pdf) (10.05.2014).

<sup>21</sup> For the Electra II report see the Smart World Brochure: [http://www.orgalime.org/sites/default/files/position-papers/Electra\\_The\\_Smart\\_World\\_Brochure\\_FIN.pdf](http://www.orgalime.org/sites/default/files/position-papers/Electra_The_Smart_World_Brochure_FIN.pdf) (04.05.2014).

<sup>22</sup> See a short story of the two Electra reports see the ORGALIME web site: <http://www.orgalime.org/page/electra> (10.05.2014).

with the corresponding portfolio. Both keep a jealous watch on national associations when those extend their contacts beyond their “national” commissioner and, for example, invite the Commission president to national events.

We can discern considerable differences in the contact behaviour among national business associations and between national and European associations which need further investigation (Kurczewska 2014; Quittkat 2014). So far the statistical analysis of our data shows that organizational properties such as staff size make a difference (Table 6).

## Interaction with the Commission

In the public mind lobbying is a unidirectional process where powerful groups target political decision-makers. According to this view the Commission “is a body that is easy to penetrate for corporate lobby groups with ample financial resources” (Corporate Europe Observatory 2014: 3). Seen in this way the high number of contacts and the wealth of resources in the hand of interested actors are clear evidence for the Commission’s besiegement. The state of the art research contradicts the simple image of lobbying as unilateral action. Scholars (Bouwen 2004; Pappi/Henning 1999) and practitioners<sup>23</sup> alike see interest representation in the EU as an exchange relation. This approach has a convincing theoretical underpinning: The Commission, still the most important actor in agenda-setting and drafting legislation, needs wide and varied information. In relation to its manifold tasks it has always been understaffed and both the accession of new member states and the expansion of competence to additional policy areas has aggravated the situation. Accordingly, the Commission has to rely on external information and will trade expert knowledge for access. The relevant question is not the frequency of contacts, but rather who has control over the exchange relation.

Over the past two decades the Commission implemented an elaborate consultation regime and developed a variety of new instruments. It was meant to and succeeded in making consultations more open and inclusive (Kohler-Koch 2013). It fits well the Commission’s ambition to gain all the information needed and still stay in control of the interaction. In the communication with interest groups the Commission is in the driver seat because it defines the conditions for consultations. This is the case for any informal exchange of views and for all formal instruments of consultation. The Commission officials decide when, on what issue and whom they will give ear-time. When consulting by organizing a conference or an online consultation the Commission cannot influence individual participation as it can only define in broad categories which kind of actors ought to participate. However, the Commission, or rather the Directorate General in charge, chooses the topic of consultations, defines the issues at stake, provides what it considers to be relevant information, formulates questions and sets the dates. The Commission exerts even more control in advisory committees<sup>23</sup> and in dialogue arrangements. The Commission specifies who has a right to participate, convenes the meetings, sets the agenda, chairs the discussion and writes the minutes. In each case it is up to the Commission whether or not it will take on board any suggestion made by the participants.

In all instances the Commission defines very clearly what kind of information it is looking for. Based on previous research we can expect that the Commission is asking for economic and technical know-

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<sup>23</sup> This has been confirmed in all interviews (quote).

how needed for effective legislation. Further, the Commission also pays attention to what Pieter Bouwen has called the “European encompassing interest” and the “domestic encompassing interest” (Bouwen 2004: 340). It is in the Commission’s interest that policy proposals fit with existing regulations and have a positive effect on market forces. If policy proposals are perceived as having an adverse effect on domestic markets, the Commission will face opposition in the Council and in the European Parliament. Thus, the Commission is not only interested in expert advice on the substance matter but also in getting a valid assessment of the potential response among stakeholders. Domestic actors can provide the relevant information and, in addition, lend support so that the Commission gains strength in the negotiations with the Council and the EP. Accordingly, we can expect that the Commission is also cultivating contacts to national business associations.

Our survey data give a nuanced picture. They support the expectation that business groups are mainly asked to provide information concerning technical and economic issues. EU decision-makers are obviously less interested in their legal expert knowledge or their assessment of political effects. Furthermore, the Commission’s priorities obviously have not changed over the years. In 2012 business associations claim to be asked more often for their advice than in the past but the ranking order is still the same (see table 7).

Table 7: Cross-time comparison: Kind of information political institutions ask from BIAs

		Legal expert knowledge	Technical expert knowledge	Economic expert knowledge	Assessment of political effects
1999	Often*	22.2	51.0	42.7	29.5
	Means	1.9	2.4	2.3	2.0
2012	Often*	20.9	63.8	45.3	37.4
	Means	1.8	2.6	2.3	2.1

EUROLOB II survey data - Annex F17, p. 27f.

It is noteworthy that European business associations and NGOs are more often asked for their political assessments than national BIAs. Our tentative explanation is that most EU BIAs have a European-wide membership and thus are well aware of the broader political picture. But this argument would also apply to their economic expert knowledge. Comprehensive territorial representation makes them familiar with the economic situation in the individual EU member states. Our data do not support the validity of this argument; national BIAs are more often asked to provide economic expert knowledge (45.4%) than EU BIAs (39.1%). Again, our expectations proved wrong concerning technical expert knowledge. Taking into account that European business associations are short of resources and that most of them do not have direct company membership, we expected that EU BIAs would less often be asked for technical advice than national BIAs. The data, however, show that EU BIAs are far ahead in this respect (75%) to national BIAs (56.9%). It is more in line with our understanding concerning the functional differentiation between associations of different scope that sectoral associations are evidently the preferred partner to provide technical expert knowledge whereas cross-sectoral BIAs have a greater say concerning economic and political impact.

The Commission's keen interest in the technical and economic expert knowledge of business associations contradicts a widespread assumption in the literature. Justin Greenwood and Ruth Webster called it "something of an orthodoxy" that "association officials are 'industrial civil servants' who lack the technical expertise needed to inform policy formulation" (Greenwood/Webster 2000:5). In line with this argument Pieter Bouwen comes to the conclusion that "(t)hey are therefore likely to be granted access to the Commission for their contribution to enhancing the institution's legitimacy rather than for their provision of expert knowledge." (Bouwen 2009:23) We take it from our extensive interviews with association personnel that the contribution to legitimacy is important but that the assumption that business associations cannot deliver technical expertise is a misconception. The normal procedure is that the association officials gain the relevant expert knowledge from their company members and either submit it in writing or take the company expert with them when talking to the Commission.

### **When ear-time is scarce: in search for the ideal partner**

Our survey data do not support the wide spread assessment that the Commission gives top and almost exclusive priority to European wide associations. Some consultation instruments such as conferences, platforms and online consultations are anyway open to all kinds of stakeholders and it does not matter whether they are organized at national or European level. This is different in the case of advisory groups and civil dialogue groups. Here it is mandatory that groups shall be composed of "at least European-level non-governmental organisations".<sup>24</sup> This reflects the official interpretation of the Lisbon Treaty (Art. 11, 2) which stipulates that the dialogue shall be maintained with "representative associations". Furthermore, the Commission's preference is based on a functional logic. It wants to strengthen European associations in order to give material and symbolic support to European integration. Besides, it is an issue of efficiency to relate to European associations because they can present the common position of their stakeholders. Often the European business associations, especially the encompassing branch associations, have difficulties to aggregate the positions of their members and fail to deliver the relevant information in time. Still, not least to put pressure on the organisation to come to terms with their internal decision-making, the Commission is said to focus its contacts on the European level associations. This assessment is supported by our survey findings which document that EU level associations profit more than national BIAs from the Commission's contact initiatives (Kohler-Koch/Quittkat 2013: 14).

When taking a bottom-up view, the picture looks different. In interviews national business associations acknowledge the Commission's preference for European associations but point out that often and for many reasons the Commission staff is interested to hear the position of the national expert. Also our survey data support this view. A large majority of national BIAs (88.5 per cent as compared to 100 per cent EU BIAs) hold the view that contacts with the Commission are important to advance their interests. Even more telling is that they claim (with distinct variations between national BIAs) to be in frequent contact with the Commission. The frequency of contacts is markedly lower than those of EU BIAs but when dealing with the working level of the EU they are still at a relatively high level (Table 8, 9).

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<sup>24</sup> See the COMMISSION DECISION of 16 December 2013 setting up a framework for civil dialogue in matters covered by the common agricultural policy; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:338:0115:0117:en:PDF> (14.05.2014)

Table 8: Frequency of contacts with the Commission top level

	National BIAs	EU BIAs
<i>Median value</i>	2.0	3.5
Yearly	51.5	31.3
½ a year	23.0	18.8
¼ a year	11.5	26.6
Monthly	10.3	17.2
Weekly	3.6	6.3

EUROLOB II survey data

Table 9: Frequency of contacts with the Commission top level

	National BIAs	EU BIAs
<i>Median value</i>	2.0	3.5
Yearly	51.5	31.3
½ a year	23.0	18.8
¼ a year	11.5	26.6
Monthly	10.3	17.2
Weekly	3.6	6.3

EUROLOB II survey data

This apparent contradiction is resolved in interviews. First, representatives of national associations have the right to participate not just in online consultations but also in other formats such as conferences, policy forums and platforms and they rate this participation as contact. More relevant is that staffs and members of a national association often approach the Commission with a European hat. They may be a member of a trans-national or inter-sectoral business alliance. They may also talk to the Commission in their capacity as a representative of the governing body or as a member of a relevant committee or expert group of the European association. Besides, many national BIAs participate in one of the numerous advisory or dialogue groups of the Commission.<sup>25</sup> Even though the Commission restricts membership to European-level organisations, the respective association may nominate someone from a national association – be it a member of the national staff or a member company. Further, national business associations take the opportunity to participate in platforms and other new formats of collaboration which the Commission created to strengthen European competitiveness.<sup>26</sup>

<sup>25</sup> DG AGRI still has one of the largest systems of Advisory Groups but other DGs also make extensive use of advisory groups. The number of advisory groups is multiplied by Working Groups which the Advisory Groups may, in agreement with the Commission, set up to facilitate its work, and by Enlarged Advisory Groups which meet on an ad-hoc basis mostly to discuss issues of a more general or horizontal nature. As from July 2014 the Advisory Groups will be replaced with the new Civil Dialogue Groups.  
[http://ec.europa.eu/agriculture/consultations/advisory-groups/index\\_en.htm](http://ec.europa.eu/agriculture/consultations/advisory-groups/index_en.htm) (10.05.2014).

<sup>26</sup> Thus the German association of the engineering industry VDMA participates in the European Technology Platform Manufuture.

So far we have not met a single representative of a national business association who complained that she or he did not have access to the Commission on an important issue. It is telling that national business associations generally find it slightly easier to get access to information from the Commission than from their national governments and also qualify their relationship to the Commission to be more cooperative than to national institutions.<sup>27</sup> Despite the good relations national business associations are well aware of the limits of national lobbying. They do not just want to have access but they want the Commission to listen and to consider their arguments. To muster legitimacy and political weight they need allies.

## Europeanization second stage

The above mentioned contact patterns are frequently overlooked but they are not new. They reveal an important aspect of the daily practice of business lobbying but they do not give account of another, more recent phenomenon which concerns the organization of European business interests. Our image of European business associations is still conditioned by past experience when the branch and sector associations were federations of national federations with encompassing membership. This changed over the years for economic and political reasons. With successive enlargements small countries with a weak industrial base joined the Union and over the years de-industrialization eroded the industrial strength of countries which in the past had been a stronghold of industry such as the United Kingdom. Apart from deterioration in market forces, European business associations suffer from the weakness of the associational system in many member states. British associations never met the benchmarks in terms of organizational density, political weight and resources of their counterparts in the (formerly) corporatist countries such as Austria, Germany, the Netherlands or the Scandinavian countries and associations in the former Communist countries have still a long way to go before they become strong political players.

European branch associations still aim to achieve territorial representativeness<sup>28</sup> and associations representing large economic branches such as *CEFIC* (chemical industry), *FoodDrinkEurope* (food industry) and *ORGALIME* (electrical industry and electronics, mechanical engineering, and metal industry) have a large membership representing about 20 to 22 EU member states. The industrial imbalance is visible in the composition of European sector associations. Hardly any sector associations could expand its national membership with the enlargement of the Union. On the contrary, with concentration and de-industrialization membership and resources at national level dwindled so that many European sector associations had to settle with a diminishing and less active membership. Consequently they have to live on a reduced budget and for reasons of cost efficiency many either have a rotating general secretariat or asked a still more prosperous national association to host the management office. It is not a previously unknown phenomenon but has spread in recent years. The latter is now the prevailing format in the mechanical engineering industry but also widespread in other industrial sectors. Furthermore, at closer scrutiny it turns out that several European sector associations or sector committees are nothing but empty shells. They still exist on

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<sup>27</sup> 88.4 per cent of national BIAs characterize their relationship to the Commission as cooperative; 79.0 per cent qualify their relationship to the national governments as cooperative. However, differences among national associations are pronounced (Annex F2b + F2c, p. 15-16).

<sup>28</sup> A comparative analysis of EU-level NGOs and EU BIAs showed a far lower level of territorial representativeness of EU BIAs than of NGOs ([DemoCiv 2010](#)).

paper but ceased to be active (in the field of mechanical engineering: *CAMME*; *EUROPAMA*; *EUROPLANT*; *FEMIN*) or reduced their activities to just organize a bi-annual conference (*EFAC*) or to have an annual General Assembly meeting (*EUROSAFE*).<sup>29</sup>

Another trend is the establishment of new European sector associations. These have an exclusive company membership instead of being a federation of national associations. It seems to be a response of well-resourced national associations in conjunction with member firms active in different parts of Europe. The respective European federations mostly have a limited number of members with headquarters concentrated in only few countries. They do not aim at territorial representativeness because it would not reflect economic reality. Except for the food industry all the other top industries (measured in terms of a high share of production and employment) are nowadays concentrated in only few EU member states. Consequently, just when the number of companies having a large share of the European market is small, the incentives to set up a European association are high. National associations take the lead because they know by experience that they meet with reservation in Brussels when lobbying as a single country representative and that it takes a unremitting effort to accommodate the active players among their members. The format of the new European sector associations differs among industries and sectors but it is quite evident that in the chemical industry, in mechanical engineering and also in the electrical-electronic industry we witness a new phase in Europeanization.<sup>30</sup>

A characteristic feature of the newly established European sector associations<sup>31</sup> is the concentration of a company membership with specific needs and high potential, a strong link to an efficient and well-resourced national association and a focused range of activities. This way they want to be able to deliver what the Commission is looking for: High level technical and economic expert knowledge, administrative efficiency in terms of delivering information and positions on time and in a convincing format, a concise policy position which has the support of stakeholders in industry. Their link to the national association is helpful in two ways: it ensures from the start a solid understanding of the EU decision-making process, trusted personal relations and presence in the relevant national decision-making arena.

## **A system in flux – tentative conclusions**

The system of EU interest representation is in a state of flux. Changes reflect the growing dissatisfaction of stakeholders with an associational system that adheres to political principles of representation which are out of touch with economic reality.

The traditional EU-level federations struggle to achieve balanced territorial representation which, in principle, is the benchmark for legitimate participation in EU governance. However, with the uneven distribution of economic competitiveness in the Union of 28 the EU federations often do not find a national counterpart or have to deal with associations which are more or less empty shells. As a response company based interest groups are mushrooming. They often have a rather small geographical base but, nevertheless, represent a high share of economic turnover and can deliver expert knowledge at the cutting edge. Thus the Commission is faced with a difficult choice when

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<sup>29</sup> Examples are taken from the mechanical engineering industry.

<sup>30</sup> For a more detailed presentation see (Kohler-Koch 2014).

<sup>31</sup> See for example EUROMOT, EUUnited with five sector associations or PlasticsEurope.

organising consultations. The established principles of good governance such as representativeness and inclusiveness have to be filled with a new content because otherwise they will have outlived their utility. Also the transparency register needs to be refurnished so that it would contain relevant information on the economic and political relevance of individual associations.

To put it in a nutshell: The Commission is not plagued with a lobbying overload but has difficulties to cope with the complexity and distortions in the present system of interested representation which, to make matters worse, is in a state of flux.

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