

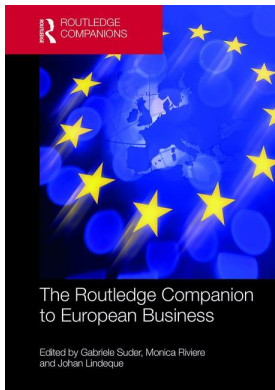
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THE EU'S INSTITUTIONS AND THE BUSINESS ENVIRONMENT

Alan Butt-Philip

Introduction

Business and the various EU institutions enjoy a symbiotic relationship. The EU has multiple responsibilities which affect firms and business, sometimes specific to particular companies, but more commonly shaping and influencing the business environment. Among these responsibilities are competition (anti-trust) policy governing private firms, mergers and acquisitions, cartels as well as state subsidies to private and public sector enterprises; external trade policy and anti-dumping; the running of the customs union and the development of the single European market based on the four freedoms (capital, goods, people and services); health and safety standards; environmental policy and standards; basic employment standards including application of the principle of equal pay for men and women; cross-border research and development policy designed to speed up the introduction of new technology and promote cooperation in R&D between firms; agricultural policy, food and food safety standards; consumer protection; not to mention policies for regional development and vocational training.

The EU does not set economic policy for the bloc as a whole, so member states have formal control over their national budgetary and fiscal policies. However, the European Central Bank in Frankfurt controls monetary policy and sets interest rates for the 19 member states in the Eurozone. In addition, there are norms set for all member states concerning the levels of government debt, the application of which was blown apart by the financial crisis of 2008–10, but which subsequent decisions, such as the Fiscal Compact of January 2012, have tried to resurrect (Intergovernmental Treaty 2012). States that ignore such norms (especially concerning levels of government debt) do so at their peril, as Greece has discovered since 2010. It is clear that the response of the EU to the financial crisis has been to require more economic and financial integration within the Eurozone as the price for guaranteeing the integrity and the stability of the euro, the use of which confers significant advantage for all participating states.

What also needs to be made clear at the outset is that the central EU institutions in Brussels have comparatively little financial power (the EU budget accounts for less than 1 per cent of EU GDP) but they do have significant and often crucial regulatory powers which are of direct concern to most industrial sectors. These include standard-setting (often through the three EU-inspired bodies of the European Committee for Electrotechnical Standardization (CENELEC), European Telecommunications Standards Institute (ETSI) and European Committee for Standardization (CEN)) and the policing of the single European market. There are 37 EU-created

regulatory agencies covering policy areas such as the authorising of medicines (EMA); food safety (EFSA); health and safety (EU-OSHA); employment conditions; environmental policy and standards (EEA); and chemicals (ECHA). These agencies are located in different member states across the EU.

Clearly the EU institutions have a wide policy remit although they are constrained legally by the EU treaty base and, politically, by the appetite of member states for further integration, which often also leads to more centralisation and loss of national government autonomy. The EU is a legal order governed by the terms of successive treaties (Rome 1957, the Single European Act 1986, Maastricht 1992, Amsterdam 1997, Nice 2000, Lisbon 2007 and others) and the interpretations of these by the European Court of Justice. The treaties themselves enable the EU policy remit to be extended, provided key institutions agree, for example using Article 236 of the EEC Treaty (now Art. 352 of the Treaty on the Functioning of the European Union (TFEU)), and the integration process itself can lead to demands for new policy areas to be addressed. A classic example of this was the drive to complete the single market leading to the development of EU policies on aspects of immigration.

A brief survey of the EU institutions

It is beyond the remit of this chapter to look in detail at all the influence of all the EU institutions on the business environment, but some have a more direct impact than others. The European Commission, which has over 30 directorates-general and service departments, is the most significant of all the institutions because of its sole right of initiative, which derives from the EU treaty base, and which makes it the focus of much of the lobbying activity in Brussels. The Commission is a multinational bureaucracy with many very long-serving officials at or near the top of the organisation whose governing ethos is to transcend national interests and to offer truly pan-European solutions to problems. The Commission manages some EU activities directly – the customs union, the external trade policy, the competition policy, and the common agricultural policy, with varying amounts of delegation of responsibility to the member states. More commonly, it is the member states that must deliver agreed EU policies in each of their own territories but they are subject to constant Commission scrutiny (often resented) and they can ultimately be challenged publicly by the Commission for non-compliance with legally binding rules and regulations, even ending up before the judges of the European Court of Justice.

Aside from this executive role, the Commission's exclusive role of initiator means that it is usually the agenda-setter for EU policy. This is a power that the Commission was granted by the Treaty of Rome and it gives a political role to the EU civil service while under the direction of the President of the Commission and his 27 colleagues, who are appointed by the governments of the member states, subject to the approval of the European Parliament. In the development of EU policy, the Commission is usually the starting point, although both the European Council and the European Parliament have ways of prompting the Commission into action. But it is down to the Commission to make policy proposals, and this role in turn attracts representatives of business to make contact with the relevant Commission officials to seek to influence the shape of those proposals before they are more public, or to amend proposals once officially tabled by the Commission.

The Commission is intended to be the 'guardian' for the extensive EU treaty base, both in terms of staying true to the founding purposes of the organisation when bringing forward proposals, and in terms of ensuring that EU decisions are correctly and fully implemented in the member states. Such a role risks putting the Commission into conflict with national

governments that the Commission thinks are not meeting their obligations. The Commission has to play its cards carefully and often looks for ways of encouraging national governments to put their houses in order rather than insisting at the outset on its legitimate legal rights. This approach ties in with the final role of the Commission, which is to act as informed 'mediator' between EU institutions that are in conflict over policy (typically the Council and the Parliament) or where member states are in disagreement with each other (Wallace et al. 2015).

From a business perspective, the Commission is much more able to be influenced than the Council of Ministers, because firms and business associations can usually get access to the Commission, whereas access to the Council is usually blocked. Partly this is because of the structure of the Council, which only rarely allows a peak association such as COPA (the European agricultural union created in 1958) or Business Europe to address its collective membership but whose floating composition is a barrier. The Council certainly has most power in the EU but the best place for firms to seek to influence positions taken by Council members is by lobbying activity in the member states (Hayes-Renshaw et al. 2006).

The European Parliament (EP) has become an increasing target for business interests to engage with the EU policy process because successive changes to the EU treaty base have given it more power and leverage among the EU institutions (Shackleton et al. 2011). The EP, which comprises 751 directly elected members from all 28 member states, and in which there is never likely to be a majority for one political tradition, does not have the same level of power as any national parliament as it shares the legislative function with the Council of Ministers and has no say over the revenues flowing into the EU budget. However, it is a crucial player in areas of great concern to the business community such as the detailed functioning of the single market, the setting of environmental standards and other environmental policies, employment regulation and consumer protection. As such there are more than 11,000 individuals who are officially registered by the EU to undertake lobbying activities on behalf of various public and private interests. The EP committees which cover the main subject areas hear evidence and seek above all to call the Commission to account. Since the arrival of the euro, the EP's economic and monetary affairs committee has also sought to examine in public the activities of the European Central Bank on a quarterly basis.

The European Court of Justice in Luxembourg (ECJ) oversees the entire EU legal order – the successive treaties and the application of all the thousands of pieces of legislation that flow from them. The ECJ is in effect the supreme court of the EU and its rulings prevail whenever there is a conflict between national and European law. The ECJ normally takes cases brought to its attention either by the European Commission or by the references from national courts. But such cases often originate because businesses question the application of single market law, or competition rules, or because trade unions are seeking to extend the *de facto* application of employment or equality law. The case law of the ECJ can have huge commercial implications and has direct effect in all the member states. Examples include the mandatory equalisation of pension ages for men and women in occupational pension schemes (ECJ 1990) and successive ECJ rulings governing the definition of working time.

The European Central Bank (ECB) in Frankfurt was set up following the decisions under the Treaty of Maastricht 1992 to create European economic and monetary union. It is designed to be independent of any political pressures from the participating member states and it decides the monetary policy, in particular the interest rate policy, for the Eurozone as a whole. Although not officially a 'lender of last resort' for the banking systems of the Eurozone states, it has been forced by successive crises in at least six member states to take actions that are analogous to this role. It has instituted several programmes of 'quantitative easing', available to all EU banks, in order to support the banking systems and economic stability in the member states. Despite its

restricted legal brief, the ECB has probably done more to support and stabilise the European business environment than any other single actor (Hodson 2012).

The European Investment Bank (EIB) in Luxembourg was set up in 1959 to provide funds, in the form of loans or guarantees, for regional development broadly defined. It is owned by the 28 member states and, by virtue of its AAA rating on the financial markets, it is able to supply loan finance at the lowest possible interest rates. The EIB provides long-term loans especially for major cross-border and infrastructure projects which could struggle to be financed by the financial markets. It provided one-fifth of the funds needed to build the Channel Tunnel. It has provided very large loans to finance telecoms infrastructure, energy-saving projects, the development of renewable energy sources and water supplies, as well as social housing in Northern Ireland. It also provides finance for smaller firms and technological development through intermediaries.

The regulatory agencies referred to above operate under legislation decided by the EU institutions but they are subject to the oversight of the European Commission and the ECJ. They have specific duties that may or may not impact directly on firms and sectors. The European Medicines Agency, at present based in London, licenses all medicines in use in the single market. Its approval enables a drug or other medicine to be sold in all EU member states. Clearly, engagement with this Agency is critical for the pharmaceutical industry and the Agency's rulings control the development of this sector in no small measure. Far less directly engaged with business is the European Environment Agency in Copenhagen. It monitors the environment in Europe generally and specifically monitors and reports on the implementation of EU environmental policies. Its main interlocutors are national environment agencies in each member state, but its assessments of environmental legislation, such as standards for water quality, air quality or vehicle emissions, are significant in the long term for the development of EU policies that directly affect the costs and activities of business across many sectors.

In addition, there is a variety of other EU-created bodies that contribute to the development of policies that affect the business environment. The Committee of the Regions comprises local and regional government representatives who comment on all legislative proposals. Similarly, the Economic and Social Committee draws representatives from business, workers, the professions and other groups from every member state: it too comments on proposals as well as preparing reports on more general issues of interest to businesses. The three standard-setting bodies (ETSI, CENELEC and CEN) have a direct impact on individual sectors when determining European standards. The EU Court of Auditors assesses the value of current policies, their levels of implementation in the member states and draws attention to lapses in the application of EU budgetary and eligibility rules by member states or the European Commission. Their remit thus covers all agricultural, regional development and industrial spending.

Most recently the EU has set up, in the wake of the financial crisis of 2007–2009, supervisory authorities that check for the financial stability of the banking sector and of individual banks.

Key policy areas for business

The EU has general responsibility for controlling the conditions under which businesses operate in the European market but has few opportunities to intervene directly in individual sectors. Even so, the cumulative impact of cross-sector (horizontal) policies and rules can have a huge bearing on what firms on the ground can do, how they behave to consumers and how they compete with other firms. This section will identify how the most critical areas of EU activity can affect sectors and individual firms.

The European economy

While national governments still control some major levers of macro-economic policy, the ECB is now responsible for monetary policy and interest rates in the Eurozone. With other EU bodies, it also sets the framework for the operations of the banking sector. National governments are expected to follow EU rules concerning levels of government debt whether they are in the Eurozone or not. In times of flagging investment and economic growth the EU, through the EIB and other structures such as the European Investment Fund, can borrow on its own account and provide an economic stimulus across the region (see above). The direct interventions of the ECB in regard to Portugal, Spain, Ireland, Italy, Greece and Cyprus since 2010 speak for themselves.

The Single Market

The ambition of the EU from the outset has been to create a fully integrated market, free of internal border controls, where the four freedoms (capital, people, goods and services) could operate seamlessly. This ambition is not yet fully achieved, especially in the field of services, despite a significant relaunch of the project for a single European market in 1985 and the adoption of the Single European Act in 1986. The Commission continues to seek out opportunities to break down barriers to cross-border trade and investment. These could be in the form of different national standards or administrative requirements that inhibit foreign competition. A particular *bête-noire* is the way that car manufacturers and car dealers have colluded to support differential prices in different national markets for the same model of car. This practice is seen as artificially segmenting the Single Market, as well as exploiting some consumers, and is contrary to EU law. Several car manufacturers have been landed with heavy fines since the case involving Volkswagen in Austria and Italy in 1998. A fine of 90 million euros was eventually imposed after Volkswagen appealed to the ECJ (EU Commission 1998).

The Commission prefers technical standards to be set by the official industry-led bodies (see above) but can also rely on the principle of 'mutual recognition' of standards between member states enshrined in the *Cassis de Dijon* judgment given by the ECJ in 1979 (ECJ 1979). But there are circumstances where the Commission has felt obliged to bring forward legislation itself, as in the case of the Toy Safety Directive 1988. This is to ensure that certain minimum standards are to be relied on wherever certain goods are purchased within the Single Market. Such instances demonstrate that sometimes it is judged necessary for varying national regulations to be substituted by a single EU regulation (re-regulation) which gives both producers and consumers certainty about what is allowed to be bought and sold across all EU member states. The EU, led by the Commission, has also radically changed the business environment in whole sectors, notably telecommunications, waste management and passenger airlines through legislative packages. In the case of financial services, the Commission has preferred to deal with types of financial products case by case.

The customs union and external trade

The EU has jurisdiction over the operations of the customs union although the day-to-day delivery of border controls and responsibility for border infrastructures lies with the member states. Normally it is the EU which determines what can legally be imported into or exported from the Union, and what duties should be applied to either imports or exports, if any. In some poorer member states the EU will even contribute significantly to the costs of new border posts (e.g. Spain, Poland, Lithuania) in order to speed up the movements of goods and people.

As regards the external trade policy of the EU, once again it is the Commission that is in the driving-seat, administering the nearly do trade agreements the EU has signed with other trade blocs or nation states, the latest of these being with South Korea, Canada and Japan. Such agreements determine how far EU firms can access foreign markets and how much access is afforded to foreign competitors in the EU market. But there are some countries, notably the USA, where the EU has yet to reach such an agreement and where WTO rules apply instead to trade. Occasionally the EU will step outside the conventional trade agreement perspective and adopt a 'whole sector' approach. This was adopted in regard to the textile industry in the EU under the Multi-Fibre Agreement (1974–2004) and when the Commission adhered to the 'Elements of Consensus' agreement with the Japanese automobile manufacturers in 1993, which restricted car imports to the EU for the rest of that decade.

The Commission is also the first port of call for those firms or sectors that allege that foreign competitors are 'dumping' goods on the EU market at artificially low prices. WTO rules constrain what the Commission can do but it can impose punitive duties on such imports if there is evidence to justify this. In the long term, such anti-dumping measures have often proved unable to protect sectors (such as photocopiers) where EU industries have been losing competitiveness.

Overall the EU aims for trade liberalisation across the world, and it was a key player in setting up the WTO in 1994. However, its credibility in this regard is challenged by its own somewhat protectionist agriculture policies, although these have been reduced in scale and impact on the world markets in response to international pressure.

The competition policy

The EEC Treaty contains articles outlining the principles governing competition between private sector firms, the behaviour of public enterprises and also the conditions under which state subsidies to firms may be allowed (TFEU 2012, Articles 101 and 102). Because there has been little legislation in this general area, and because for a long time most member states did not have their own competition authorities, the implementation of the rules on competition has been traditionally the responsibility of the Commission itself. It is only since the Modernisation Act of 2004 that substantial powers to enforce the competition policy have been delegated to all individual member states. Even so, the Commission itself still handles the largest cases and it has oversight over the activities of the national competition authorities as well. There is considerable interaction between these various authorities to ensure a consistent interpretation of the treaty principles on competition across all 28 member states.

The EU's competition rules outlaw restrictive practices such as price fixing, market sharing or any other behaviour by firms which has the effect of distorting competition or impeding the functioning of the market. The rules also outlaw any abuses of dominant position by one firm in relation to others – such as loss leading or unreasonable refusal to supply. The Merger Regulation of 1969 also established the right of the EU to control, and on occasion to prevent mergers, acquisitions and business alliances where the combined turnover of the parties is more than 5 billion euros and their business in the EU market is worth 250 million euros or more. Few proposed mergers are outlawed absolutely, and the Commission seeks to balance concerns about the shrinking of competitor numbers with any projected benefit for consumers.

Public enterprises are required to be transparent in their financial reporting, particularly in sectors such as airlines or banking, where they are in competition with privately owned firms.

They must also ensure that their purchasing practices enable cross-border suppliers to bid for contracts.

Finally, the Commission must be consulted about any state subsidies to firms and it defines the appropriate scale of any capital subsidies (according to the level of regional need) that may be allowed. Such 'state aids' (including tax breaks and rent rebates) are broadly defined and permission for governments to pay out such subsidies is frequently refused and illegal payments must be paid back to their donors (EU Commission 1987; 1993).

Agriculture

For over 50 years agriculture in Europe has been dominated by the common agriculture policy (CAP), the EU's first policy programme for a whole sector of business activity. At first some sub-sectors such as 'sheepmeat' were not covered, but now they almost all are. The CAP's original design was to manage agricultural markets day by day in order to support prices and thus to boost production and EU self-sufficiency. Since 2004/5 the method of intervention has changed and individual farms receive payments from the EU budget based on previous payments (but slowly reducing) and cross-compliance with EU environmental policy objectives. So, for most farmers, depending on their sector of activity, their business environment is still dominated by the EU.

The results of the EU's actions are everywhere to be seen in rural areas. Farms have got larger. Farm incomes have risen over time and the rural economy has benefited. Now farmers are being encouraged to diversify their business activities, including into non-agricultural roles, and to become much friendlier to the environment in how they farm – fences being replaced in some areas by hedges, which provide nesting places for birds and cover for wild plants and animals.

At the same time the EU is under international pressure through the WTO to reduce the extent to which agriculture is protected in Europe, as the price for further global trade liberalisation. So, levels of financial support for farms and farmers are falling and this is set to continue. In addition, the EU is reducing export subsidies, which aim to dispose of surplus production at home while, also slowly, opening up more European markets to non-EU produce (such as wine and beef from South America), which is highly competitive.

Regional development and the structural funds

The EU has provided some structural measures (e.g. encouragement of farm amalgamations or investment in land drainage schemes) since the early days of the CAP. Then came grants from the European Social Fund (ESF), which encouraged states and their voluntary sectors to improve vocational training and other labour market skills. Finally, a Regional Development Fund was created in 1975 to provide capital grants for infrastructure projects and long-term job creation in the poorest parts of the EU. These initiatives have been greatly expanded following enlargements of the number of EU member states and as a complement to the competition of the Single European Market and the introduction of a single currency – the euro. Today the structural funds taken together account for over a third of the EU's annual budget – approaching 50 billion euros.

The structural funds concentrate their spending on the poorest parts of the EU, notably Eastern Europe and parts of the Mediterranean coast. Their impact for business can be seen in vastly improved infrastructure – motorways, telecoms upgrades, water and energy supplies – as

well as in pockets of industrial development. Modernised airports and urban metro systems (e.g. in Prague and Warsaw) are also testament to these EU funds, and make life easier for the business traveller. The training element of these funds, the European Social Fund, has been important in strengthening national training programmes for those that have difficulty in obtaining employment – i.e. migrant workers, young people under 26 without qualifications, the disabled, and women returning to work after a career break. Generally, the skills profile of those seeking employment has been improved as a result of almost 50 years of ESF funding in the member states.

Environmental policies and standards

Since the 1970s the EU has been the key actor in shaping environmental policies across Europe. This has been made easier by the absence of much interest in such policies in most member states before that time and because of the realistic recognition that pollution, especially air and water pollution, knows no frontiers. Starting with directives concerning air, noise and water pollution, as well as the transport and disposal of hazardous waste, the EU's actions have had a major impact on business activities both on their own premises and in regard to their products and services. From the 1990s the EU has also set standards for waste management and demanded that large sums of public money be invested in major projects, such as the treatment of sewage in all major cities in the name of improving water quality and public health. Such investment inevitably has the effect of raising the cost of water supply and other utilities for business as well as increasing operating costs on sites.

The EU has taken a proactive stance in regard to recycling, requiring all car manufacturers from 2006 to sell only new car models that are recyclable once scrapped. Vehicle emissions for cars and lorries have been legislated since the late 1980s; in 2016, the discovery that Volkswagen alongside many other companies had deliberately and systematically deceived consumers and the official testing bodies for years about the levels of emissions from diesel-fuelled cars came close to orchestrating its corporate collapse. The EU has also tried, rather unsuccessfully, to establish the European Eco-Label as the recognised emblem of good environmentally friendly products and services based on a life-cycle analysis, which can be costly as well as controversial (EC Regulation 2000).

Labour regulation and equal pay

The EU does not have a general remit to bring forward proposed regulations in the field of employment but it does have such powers in specific fields such as health and safety at work (broadly defined to include maximum working hours, and the rights of pregnant women employees), equal pay and anti-discrimination measures.

Much of the impact of the social and employment provisions of the EU treaty base has come about through case law determined by the ECJ. Thus, the definition of equal pay so that it requires equal pay for work of equal value comes from the Luxembourg court. So does the requirement that all occupational pension schemes must have the same benefits and pension ages for women as for men, and the legal demand that part-time workers must enjoy pro rata the same benefits from employment (e.g. holiday entitlements and pension rights) as full-time workers. Where there are genuine areas of doubt over the interpretations of such case law, it can require a new case and a further judgment from the ECJ before clarification can be definitively given.

Industrial policy and research

The EU does not have an industrial policy or an industrial strategy, and only rarely does it have any over-arching plans for particular sectors – the exceptions being steel industry rationalisation and shipbuilding in the 1980s, textiles in relation to the Multi-Fibre Agreement (see above), the long-term investment in the development of telecommunications begun in the early 1980s and the creation of Airbus Industry.

It is also true that a combination of EU measures derived from its roles in regard to external trade policy, the running of the Single Market, the implementation of the competition policy and the setting of environmental standards can have a profound impact on the development, shape and behaviour of all firms in a particular sector – the car industry (manufacturers and retailers) being a case in point. Another important example, where concerted regulatory activity by the European Commission has transformed a sector, is the airline passenger transport market. In 2014, the EasyJet airline told the UK government that without the EU's actions their company would not exist (FCO 2012–2014). A similar story could be adduced in relation to the market for postal services.

The EU has significant funds put aside for research, which are often targeted at key drivers of future industrial and technological development. The mechanisms adopted often require collaboration between several firms and research institutions across borders within the EU. Such activities have seen the development of the GSM standard for mobile phone technology as well as multiple investments in the development of new environmental technology.

Other policies

Sometimes it becomes clear that effective delivery of EU policy in one field demands the development of policy in another field previously untouched by the EU. A classic case has been the need for the EU to propose measures concerning aspects of immigration (e.g. visa issue and the treatment of asylum seekers) in order to deliver free movement of people within the Single Market. Another example, which is also related to the Single Market, are EU measures governing consumer protection and the facilitation of claims and access to justice for consumers across borders.

The EU has found itself trying to assert key principles underpinning the market in the field of sport. This came about as a result of the famous *Bosman* judgment by the ECJ in 1995, which not only established some basic rights for professional footballers, leading to a major increase in their wages at the top of the game, but also decided that football clubs are businesses which must henceforth respect EU rules on competition between firms (ECJ 1995). So, it has to be conceded that the limits to EU intervention as far as businesses are concerned are uncertain and not just subject to the whims of Commission officials. The ECJ can extend the scope of EU oversight to unexpected areas, such as sport and the provision of healthcare services across borders.

Lobbying and representation of business interests

It should cause no surprise that the EU institutions have become major targets for lobbying activity given that they oversee and regulate one of the richest markets in the world, comprising in 2017 some 508 million people. Non-EU governments, trade associations, professional bodies, consultants and individual firms are all involved. As the powers and scope for

EU intervention have increased as a result of successive treaty changes, so has the number of EU lobbying organisations and lobbyists risen, usually, but not always, based in Brussels. At the time of writing the number of lobbyists active in EU decision-making is thought to exceed 20,000 and the number of lobbying organisations targeting the EU institutions around 3,000. Comparisons between Washington DC and Brussels in this regard are appropriate (Coen 2009; Greenwood 2011).

Most lobby groups based in Brussels are very small scale and only become active when proposals are in the air that directly affect them. Otherwise they are mainly listening posts for the national federations who make up their membership. A few groups, however, have a major presence and impact on the Brussels scene – these can be sectoral in composition (e.g. chemical industries, pharmaceuticals or automobile manufacturers) or cross-sectoral such as Business Europe (a peak association representing national employer associations such as the CBI in the UK, the DBI in Germany or MEDEF in France) or AMCHAM's EU committee, which speaks for American businesses located in the EU. These organisations can be very influential because they speak for major business interests and are able to offer creative solutions and informed analysis on a wide variety of subjects under discussion by the EU.

Lobbyists above all seek access to the key decision-makers in the EU institutions (where they will be successful if they can show they are genuinely representative) in order to obtain information about EU thinking and possible influence. In return decision-makers at the Commission and the EP are looking for reliable information about specific sectors, which is not generally available, and for guidance about the possible impact of policy options under consideration.

Occasionally the Commission is prepared to use interest groups or charities as its agents in policy delivery. The rationalisation of the steel industry in the 1980s was mostly achieved through EUROFER, which represented all the major steelmakers. The car and oil industries were similarly privileged under the two AUTO-OIL programmes of the 1990s. In addition, much of the EU's development aid continues to be channelled through charities such as Oxfam, the Red Cross and Médecins Sans Frontières – organisations that both lobby Brussels on policy on the one hand and seek to deliver it on the other.

Business interests dominate the lobbying scene in the EU because they often have direct economic interests at stake and they are prepared to resource such activities adequately. In contrast those organisations at EU level that seek to represent more general public interests – such as consumers or environmental concerns – find themselves at a disadvantage, because of the large number of issues they ought to be dealing with simultaneously while they are greatly under-resourced for this task. The Commission does provide some funding for about 60 such groups, to try to counterbalance the power of business interests, but the more such groups rely on EU funding the more there can be questions about their independence.

Clearly there are issues to be considered in relation to the transparency, accountability and democracy in EU policy-making as a result of the scale and impact of lobbying in the EU. These issues have come to the fore in the twenty-first century and have prompted the Commission and the EP to put in place different schemes to put into the public domain who they are talking to (EU Commission 2017).

Neo-functional theorist of European integration foresaw a key role for interest groups in the development and deepening of the economic integration process. New institutionalist theorists in the 1990s also rated the influence of these interests highly in the EU policy-making processes. Intergovernmentalists, however, dismiss the role of interest groups as marginal because they stress the overriding role of national governments in EU decision-making. If the intergovernmentalists are right, it is hard to understand why business interests devote so much time, money and people to lobbying the EU institutions (Coen 2006, Cini and Borrigan 2016).

Another critique of the important part played by lobbying in the EU's decision-making is that corporate interests have become so strongly represented at the Brussels level that the necessary components of a truly functioning democratic process – transparency and accountability – have been sidelined. The analysis above suggests some weight should be given to this kind of criticism, and some moves have been made by the EU institutions to reduce the secrecy that surrounds much of their dialogue with corporate interests. Ultimately, it is both national governments, through the Council of Ministers, and democratically elected MEPs in the EP who make most of the key decisions, and they are only beholden to corporate interests if they choose to be so. On the other side of the argument, it needs to be acknowledged that corporate interests, as much as any others in a vibrant democracy, are entitled to represent themselves and to seek to influence the actions of government, all the more so when the decision-making bodies are geographically so far away from functioning businesses on the ground. It can also be asserted that the EU institutions have so far been the only governmental bodies in Western Europe to have successfully taken on great global multinational companies such as Amazon, Google and Microsoft for anti-competitive behaviour and tax avoidance.

Conclusions

Although the EU institutions are bound by the terms and authorisations granted by the EU treaty base and have inevitably become somewhat rule-bound within this complex legal order, the development of the economic integration process presided over by the EU is still fundamentally dynamic. This means that as circumstances change and demands for policy adjustments and new initiatives follow, there is still a large capacity for business interests to influence the actions of the EU, and vice versa. It should never be forgotten that while the EU can regulate to open up markets and cross-border competition, it is up to individual firms to decide whether or not to use the opportunities that such economic integration offers. Businesses are as much the agents of European economic integration as the European Commission, and it is not surprising that they do more than just co-exist. This analysis has shown that the EU institutions do indeed have profound impacts on the European business environment at many levels but the separate decisions of business enterprises are also very significant.

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PART E

Managing people in Europe

