

**Surrogate Citizens? NGOs, Policy Making and
Citizenship Practice in the European Union: the
Cases of Auto Oil, Drinking Water and Unit Pricing**

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Part 1: Introduction

The European Union (EU; the Union) is a policy-making system whose citizenship is practiced by the nationals of its fifteen member states. The Treaty of Amsterdam (ToA) did little to enhance the formal status of Union citizenship created at Maastricht other than make clear its subordination to national membership¹. Nonetheless, since the Maastricht Treaty, member state nationals have been able to participate more directly in the construction of Union citizenship as the method of its engineering has shifted from elite design to a broader approach more open to social movements (Wiener 1998). The shifting opportunity structures of the Union in policy areas such as the environment and consumer affairs have afforded NGOs the ability to access EU networks in a way which is not always possible for certain traditionally powerful (interest) groups such as trades unions, which are either more closely tied to national structures and systems or unable easily to find common cause thanks to competing (national) interests (Peterson 1997; Marks and McAdam 1996; McLaughlin, Jordan and Maloney 1993; Young 1998). In brief, Union citizenship is 'fragmented' (Wiener 1998), reliant for its realisation upon representatives of the citizen as much as the individual him/herself.

In this non-state of the EU discerned by Wiener, then, citizenship is no longer completely a supply-led process aimed at generating identity or affective loyalty but instead one concerned with affecting policy outcomes in a way which is in keeping with the (sectoral) concerns of the citizen. Even if the desired end goal is a greater emotional attachment to the European polity, emphasis is now being placed on this developing over time as the result of ongoing favourable analysis by individuals of the impact of EU legislation on their lives (Gabel 1998). The ability of NGOs² to shape the product of the Union system is thus a key determinant of the potential to develop EU citizenship. Aspinwall (1998, p. 197) writes of the 'advocacy void' in Union politics given the weakness of its transnational political parties, a fact which lends NGOs the

¹The relocation of matters such as visa and immigration policy from the third to the first pillar, as well as the further extension of the European Parliament (EP)'s legislative role, mean that Union citizenship is unlikely to remain quite so 'frozen', however (Warleigh 1998).

²For the purposes of this study I defined NGOs primarily as environmental and consumer groups

opportunity to take up these arms in their stead (Favell 1998). Moreover, it is a truism of EU analysis that the institutions (particularly the Commission) can suffer from an expertise gap which outside organisations (including NGOs) can fill. Drawing a parallel from studies of citizens' groups and NGOs in the US such as that by McCubbins and Schwartz (1984), it may be that member governments have an interest in allowing such actors to monitor and police EU policy since this reduces costs to government and signals which areas are politically significant for important constituencies.

However, it is also true that NGOs do not have a monopoly on citizen representation, especially given the powers of the rapidly maturing EP. Given the somewhat hermetic structures of the Union institutions, it can be difficult for small organisations to develop a coherent perspective and promote citizens' interests in any sustained way³. It is possible that NGOs are no more than nominally citizen-friendly since they can be more accountable to donors than members or the general public (Fisher 1997). Moreover, NGOs operating in Brussels can be elite-driven rather than membership-led; knowledge of the EU system necessitates a sophisticated understanding which can cause NGO players to operate against the wishes (or even the awareness) of their members (Favell 1998). If this is the case, then the function of NGOs is to provide EU actors with expert help rather than enhance EU democracy; in fact, EU actors may actively seek to restrict access to policy making circles for those outside the relevant networks, setting up a *de facto* quasi corporatism which excludes the participation of rather more citizens' representatives than it includes (Mazey and Richardson 1996).

Such issues are highly important, since we may thus be relying on NGOs to carry out a macro level task (developing citizenship) of which they are incapable⁴. A first empirical step is to determine whether or not NGOs are actually capable of influencing the policy output of the Union system, since this will determine the function NGOs can have in such a process of citizenship construction. In this paper I draw on extensive field work to examine the process of making policy on four recent directives (the *Auto Oil* package of two major measures to reduce air pollution from road traffic by reducing pollution emissions and improving fuel quality; the

³For example, one interviewee complained that DG XV of the Commission favours social citizenship whereas DG V favours the more limited 'market citizen' model.

⁴Indeed, such issues as these and a comparison with citizen participation in direct action groups form the focus of an ongoing research programme.

directive on *unit pricing*, which sought to improve the cost information available to consumers by adding a price per standard weight/quantity to the price per item; and the directive on *quality of drinking water*, which sought improvements to existing legislation in line with updated scientific research on acceptable safety levels for such phenomena as radioactivity as well as minerals like lead and copper⁵ to establish whether NGOs were able to play a meaningful role (which I define as affecting the final content of the legislation). I argue that despite their significant resource problems this was in fact the case, and that for several EU actors NGOs are indeed useful channels to popular opinion and/or concern which they prioritise more highly than representation from industry. NGOs often have more influence than is evident *prima facie*, since their input can be cloaked by institutional sponsors such as MEPs or Commission/Council officials responsible for drafting legislation. However, NGOs are incomplete representatives of the citizen; they can simply fail to mobilise on important issues, limited by resources or following their own priorities instead of the EU's legislative programme. When present in the appropriate networks, they can fail to act strategically or be marginalised by other interested actors. NGOs' utility for EU decision makers is often the provision of expertise rather than any ability to enhance the legitimacy of a particular decision. NGOs can thus be allies for the EU citizen concerned with meeting sectoral concerns in the maelstrom of EU policy networks, but are only one part of the process of deepening Union citizenship as an experienced practice.

The paper is structured as follows. In part 2, I examine the practical problems of NGOs attempting to mobilise at EU level. In part 3, I analyse the strategic behaviour of NGOs in order to assess both their utility to EU actors and their ability to exploit opportunities which either present themselves or which they create. Part 4 assesses the influence which NGOs were able to exert on the final shape of the four Directives. Part 5 offers some

⁵These directives were selected since they are all recent examples of legislation in areas likely to resonate with citizens, namely environment and consumer policies. Three of them were subject to codecision; one to the cooperation procedure (drinking water), allowing a comparison of NGO activity across policy areas and legislative procedures. Some of these proposals were controversial and high in profile (Auto Oil); the others were more representative of the stuff of daily EU politics, attracting the attention of few citizens despite their EU-wide impact. This generated a useful range of policy to study. Additionally, avoiding concentration on the areas most commonly analysed in studies of Union citizenship, namely freedom of movement and immigration, facilitated concentration on citizenship and system output rather than the nature and limits of Union citizenship per se. Insights presented in this paper should be taken to result from analysis of all four case studies unless otherwise stated.

conclusions about the ability of NGOs to contribute to the development of European citizenship.

Part 2: NGO Mobilisation: Restricted Pass or Access All Areas?

Several practical issues act as constraints on the impact NGOs are able to make even before they decide to mobilise on an issue. Many actors in the Council and Commission (and probably also the EP) give greater weight to representation made by industrial interest groups, especially if the latter can successfully argue that employment levels or competitiveness are at stake. As a result, NGOs are simply unable properly to access the full range of EU actors. However, most NGOs are able to access decision makers in all the institutions of the Union in some way; indeed, certain of them enjoy close relations with MEPs and/or political groups (eg GLOBE) and will be deliberately treated as stakeholders when the EP holds hearings on pertinent subjects⁶.

Unsurprisingly, such good relations are prized by NGOs as a source of both information and influence. They are thus defended doggedly; those seeking to break in to policy communities outside their traditional areas of expertise can find the way blocked by existing insiders, meaning that the construction of complex alliances is necessary to achieve goals.

When such barriers are not erected, access to information can be a further problem; without a Brussels office it is very difficult to keep track of EU legislation or attend all the necessary public meetings (such as those of EP committees), and NGOs may thus either fail to know of a problem or be unable to develop a suitably robust strategy for solving it. Furthermore, knowledge of the intricacies of the EU system can be lacking; for instance, NGOs can (like industry) fail to act at the right time simply because they are unaware of the timescale to which dossiers are subject in the various institutions.

Persistence is usually necessary for success in lobbying, and few NGOs have the ability to follow a policy proposal for the period of several months or longer which is needed to make law in the Union. Resources can also limit the ability of NGOs to play a full part even when they are invited into symposia or similar consultative fora; this has both immediate and longer-term impacts, as an

⁶In fact, some relations of this kind are so close that the relevant institutional actors are viewed by the NGOs concerned as their allies on the inside rather than the reverse, particularly in DG XI of the Commission.

opportunity for influence is lost and actors previously well disposed to the NGO can become reluctant to seek their participation in future. Lobbying by NGOs is often restricted to the sending of position papers for financial reasons; many NGOs cannot employ the range of sophisticated (multi-arena) or expensive tactics open to rich companies or associations, and may therefore have to restrict the range of actors they approach. Moreover, the content of such position papers can be somewhat disappointing for decision makers; for instance, when lobbying MEPs many NGOs do not provide sample technically sound amendments for the parliamentarian to propose if (s)he wishes, meaning that the burden of drafting remains with the MEP, who is unlikely to have relevant subject expertise. Indeed, several interviewees complained that many NGO position papers failed to present any request for action at all; more often than industry counterparts, NGOs bemoan a policy proposal without supplying solutions to the problems they raise or even suggesting useful holding measures. As a result, they can be perceived to be of limited use to actors who would otherwise be favourably disposed towards them.

NGOs, like all petitioners, need to be credible experts in order to serve as sources of advice for decision makers. Given their resource problems, NGOs are thus often obliged to concentrate on fewer policy areas than their remit would otherwise dictate, creating a gap but allowing the generation of at least some real expertise. Credibility also rests on independence; if an NGO develops too symbiotic a relationship with an institution or decision maker, it may thereby sacrifice its authority elsewhere. Since NGOs usually claim to be more than interest groups, this is significant; industrial interests tend to have less of a need for independence in order to be credible, and are also likely to benefit from the opportunities for information exchange that closer relations with national governments and civil services often bring. Other actors than industry are potential opponents for NGOs; member governments, parts of the Commission and political groups can oppose them in the various institutions, and interinstitutional factors can be more important than any other lobbying in shaping policy design⁷.

Furthermore, NGOs can be difficult partners for institutional actors even when such problems do not arise. Differences about the correct approach to policy or the balance of regulation and soft law in a policy mix can set NGOs (which tend to prefer legislation) at odds with officials (who may actively oppose, or be unable to deliver, such measures). If they fail to lobby other actors at both

⁷Although of course it cannot be excluded *a priori* that NGO lobbying has made an impact in determining these institutional positions...

national and EU levels hard enough, NGOs can be of limited use to actors otherwise ready to sponsor them⁸. Moreover, if NGOs cannot present a united position on the particular legislation in question (either because their federal structures are too weak or because there is more than one umbrella organisation) they are worse than unhelpful as allies⁹. Officials can thus be wary of NGOs and unprepared to risk being seen to politicise their own work for little reward. Added to the fact that officials can find it far more productive to consult (sub) national governments and industry than NGOs since it is they who implement EU legislation, NGOs can experience great difficulty in shaping policy design.

There thus operates an informal hierarchy of NGOs according to which decision makers rank those likely to be useful and those which are unlikely to be successful partners. Such reckonings are invariably personal, and may not be shared by all members of a Commission Directorate General or EP committee, but those working in a subject area (such as, say, climate change) tend to a common view of which NGOs are worth seeking or listening to on that particular subject. Moreover, a multiple focus NGO's reputation for expertise in its chosen policy areas will vary according to the perception abroad of its particular policy officers; it is possible for NGOs to be commonly viewed as excellent in some aspects of a policy portfolio (e.g. water quality in environment policy), but unhelpful in others. There thus exists a complicated system of insiders which changes even within portfolios; those NGOs whose work is not thought to be of sufficient quality will have to make great efforts to be heard, although the list of 'insiders' is not closed and those favoured with inclusion can lose it just as new actors can join it.

Mobilising presents the next potential obstacle for NGOs. Where access is not problematic, they may simply decide not to use it if they prefer campaigning to engagement with the daily business of attempting to shape legislation¹⁰. This crucial decision on how to operate need not mean a zero-sum choice between campaigning and lobbying in order to shape particular policy proposals; but it is clear that NGOs which prioritise the former often antagonise actors (especially officials) when attempting to do the latter since they can

⁸Indeed, several interviewed officials complained that the lack of sustained NGO support for their initiatives left them 'friendless' both in their own institutions and vis-a-vis the outside world.

⁹This problem can be exacerbated when members of an NGO fail to understand or support elite strategy, creating an elite-membership cleavage which limits the ability to mobilise.

¹⁰Many interviewees cited Greenpeace as a case in point.

lack the appropriate techniques or approach to policy making. Deciding when and how to mobilise follows the organisation's basic philosophy as well as its resource levels; for example, BEUC (the Brussels-based consumer group umbrella organisation) took a low profile on unit pricing, considering it a low-priority dossier unlikely to resonate with the consumer despite its visible impact in every shop in the Union (except those eventually excluded against BEUC's wishes); WWF did not lobby on the drinking water directive since it did not have a relevant officer at the time, although it now does.

Many interviewees thought that NGOs do not prioritise strategically, either for the above reasons or through ignorance of the EU work programme¹¹. Where this is not a problem, NGOs can fail to make an impact either because industry has a body which is more narrowly devoted to the issue at hand, forcing the NGO sector to rely on generalists (eg there is no NGO devoted exclusively to drinking water, although there is an industry equivalent, EUREAU), or because other actors deliberately seek to exclude them (or at least discourage their mobilisation) as part of their own lobbying strategy. This was the case for unit pricing. The obverse also applies; attempting to take a holistic view of a portfolio, as ECAS (the Euro Citizens' Action Service) attempts to do, can result in being overcommitted given the available resource levels in both human and financial terms: ironically, a strategic view may thus not always be a blessing.

The effectiveness with which NGOs mobilised in the four case study directives was variable. Those which were active managed to see the right actors (except in the Council, to which I return later), but like other lobbyists were often too late to mobilise¹², thus sacrificing at least some of their potential impact. Some decision makers complained that they were obliged to seek NGOs out rather than hear from them directly, and that when position papers were received they were neither followed up nor replete with the necessary focus on targets, schedules and practical solutions. Given that it is normal for the volume of lobbying from other quarters to outweigh that from NGOs, this is a significant problem; even in the EP, some actors felt that they had to make a conscious effort to seek out an NGO perspective.

¹¹In fact, it was remarked that some NGOs often cannot help decision makers on even a major piece of legislation if it does not happen to be in their own programme of work for the year.

¹²For example, the best time to lobby MEPs and EP officials is before the subject in question is formally an item on the agenda since lobbyists then have a greater chance of shaping opinion: public positions are less likely to have been taken, and the information gap is likely to be greater.

By contrast, NGO actors are capable of displaying and acting on sophisticated knowledge of both the EU system and alliance construction. For example, on the Auto Oil dossiers, an NGO alliance between consumer and environmental as well as health groups was forged to push forward concerns about public health which were downgraded by the official consultation process with the car and oil industries. This alliance is widely recognised as having been successful in shaping both the response to the proposal of MEPs and the consultation plans put forward by the Commission for the 'daughter directives'. It is also possible to make ad hoc coalitions across what are traditionally seen as immovable barriers: the EEB (European Environmental Bureau) found a common cause with certain member states which wanted stricter environmental legislation.

This is a particularly significant development given the dependence of 'umbrella' NGOs in Brussels on their national members; the ability to call on national footsoldiers when mobilisation is impossible for the Brussels organisation is clearly vital in determining access to national policy networks. However, even this has its problems for influencing EU policy: several interviewees pointed out that *national* NGOs can be more fruitful partners for decision makers since they are more closely in tune with the mood of the national publics and traditions and also less likely to have a position weakened by compromise with other organisations as can be the case with EU-level associations of any (interest) group. Moreover, it can limit the lobbying focus to national horizons, causing the NGO to fail to ascertain either that the EU perspective is present or that the means of addressing it necessitates contacts with figures outside the relevant member state¹³. A particular problem for NGOs is access to the Council secretariat; although the latter is not always easy to penetrate, it is clear from the present research that both national delegations and the secretariat itself are under-lobbied, as NGOs fail to perceive that Council officials may be both in need of information and able to affect policy outcomes¹⁴, especially when a small country has the Council Presidency or when the Presidency is dealing with a controversial matter requiring hard negotiation¹⁵.

¹³For instance, interviewees in the Commission stated that they had received virtually no lobbying from NGOs on either drinking water or unit pricing.

¹⁴The general consensus of opinion expressed was that both consultancies and industrial lobbies had far better access to the Council than NGOs.

¹⁵Indeed, one interviewee was of the opinion that the Council secretariat would have an institutional interest in hearing more from NGOs since the Commission enjoys an advantage of information, having drafted the original proposal and followed its progress all the way down the legislative chain.

A final problem of NGO mobilisation is, ironically given the general assumption that the EP is the NGO's friend, the codecision procedure. Although codecision increases the chance of an NGO to make an impact on legislation by increasing the power of the institution most likely to share symmetrical concerns, it also makes it difficult to track the development of policies at the crucial moment of legislation, given that the conciliation process (during which outstanding disputes between the EP and Council are resolved) is held *in camera*. NGOs do not normally maintain contact with officials of either institution during this process, depriving themselves of a potential source of influence (which could be gained by providing solutions to the more intractable problems still unresolved at this stage). MEPs can be more open than Council officials, but even they must preserve the secrecy of conciliation negotiations in terms of substantive, rather than procedural, information. As a result, NGOs may suffer from an inability to make their partners accountable even when they have built alliances. For reasons of (strategic or otherwise) choice, resource limitations, inability fully to penetrate the requisite networks and lack of accountability, NGOs do not yet participate meaningfully on the whole range of policy issues studied despite the existence of certain high profile, well-regarded and professional organisations in their number.

Part 3: Strategies and Arguments, or The Importance of Being Constructive

The case studies revealed that at least certain NGOs have nonetheless developed relatively sophisticated lobbying strategies, enabling the elite among them to act as 'purposeful opportunists' (Cram 1997, pp. 170-6) with the capacity to use the right argument with the right actor and thereby secure support. They are part of policy communities which collectively generate policy. In this part of the paper I ask four questions in order to assess the quality of NGO lobbying: what arguments did they use? What strategies did they employ? Were they able to learn from any mistakes or problems? What did decision makers gain from NGO interventions? The conclusion I reach is that NGOs can be useful allies for EU actors, providing legitimacy and the opportunity to take a covertly more progressive line than might otherwise be the case. In addition, NGOs can be valuable sources of information and are prized as suppliers of a perspective which complements (or opposes) that put forward by industry. However, I found little evidence that NGOs were able to *persuade* many actors to take a line in opposition to previous or existing convictions; they can certainly bring issues to

the table and exploit an information gap, but they are far less likely to over-ride existing concerns¹⁶.

NGOs, like other lobbyists, are most effective when they bring a new issue to an actor's attention and persuade the latter that they share an interest in solving the related problems. In other words, *it is necessary to operate in a vacuum of existing interests as far as possible, and supply a constructive, cooperative means of solving policy problems*. To do this optimally requires both skilful presentation and scientific or technical data; and here again the problem of NGO resources is significant, the great majority of interviewees considering that NGOs generally have too few resources to provide the necessary support for their argumentation. As a result, NGOs often resort to arguments based on principle or ethics (viewed from a sectional perspective), coming to the practicalities of the substantive policy only as a secondary issue. Even those able to supply technical data will mix this with appeals to principle as part of their argument¹⁷; in some cases (such as the EEB's appeal during Auto Oil lobbying to honour the commitment to increase NGO participation in policy design undertaken in the 5th Action Programme for the Environment) this was effective, but it can also serve to alienate actors who interpret their brief more technocratically or those who seek above all constructive solutions to policy problems. Highly paid consultants are far more likely to be sensitive to such issues, developing arguments tailored to particular actors; resource limitations mean that NGOs tend to produce one position paper and hope that 'one size fits all'.

Appeals to (European) citizenship rooted in claims to represent at least significant parts of civil society were a surprisingly common part of NGO lobbying discourse. NGOs can see themselves and be considered as representatives of the general population, at least by actors with an interest in using this claim to support their own positions. Although by no means always present, the rights of the citizen¹⁸ were often invoked, particularly by environmental groups concerned with public health and the problems of air pollution. ECAS' role in coordinating lobbying on the Auto Oil dossiers brought citizenship issues to the fore, as was attested by several interviewees. On other issues (if not necessarily unit pricing), BEUC has explicitly referred to citizenship since the emphasis placed on

¹⁶I return to this point in part 4.

¹⁷For example, the EEB's lobbying on Auto Oil mixed technical data from a study undertaken by DG XII and appeals to principles of EU environment policy.

¹⁸Although of course such things as the 'right to clean air' are not formally part of the Treaty...

completing the single market has meant that most citizens have so far experienced the EU as consumers. Even consultants have used citizenship as part of their argumentation, stressing the pan-European nature of their client's concerns or the public health impact of measures they seek to advance/block.

However, there is a significant limit to the ability of NGOs to use this argument to advantage given the need to provide concrete solutions to policy problems as well as moral authority. Appeals to citizenship are easier to make in some policy issues than others (often depending on the depth of EU legislation in the field). Moreover, even broad membership NGOs are by definition sectional in their interests and may thus have difficulty in claiming general representativity. To access members of all political parties they also need to avoid appearing to be overly partisan, thereby reducing the scope for strong policy-citizenship linkage in areas such as welfare. As a result, such appeals can have little utility or credibility, and can also be seen as part of the general NGO trend to lobby from 'ethical' rather than 'concrete' positions.

NGO lobbying strategies are similarly mixed in nature. The present study reveals evidence of strategic thinking by many NGO actors, but also conflicting views of their effectiveness and ability to adapt tactics according to changing situations. Moreover, NGOs tend to carry out incomplete campaigns; many interviewees remarked that NGO lobbyists effectively give up after the EP's second reading of a proposal (i.e. before the conciliation process begins), and others felt that certain NGOs are inconsistent and unable to express the firm, rational and sustained opposition to a proposal which gains respect (and thus makes it more likely that actors will adapt their positions).

However, it is also clear that at least certain NGOs have a keen sense of the need to adapt strategy according to the actor/institution in question, or at least the policy dossier to hand. This enables influence to be generated more easily, since actors perceive themselves to be receiving information tailored to the case in point even if it is more 'principled' than solution-oriented. Different sections of the Commission, for example, should be approached according to their sub-institutional culture; several NGOs studied are aware of this and tailor their lobbying accordingly. Moreover, at least some NGOs do adapt their lobbying according to the stage in the legislative chain a proposal has reached, continually updating it according to pragmatic concerns of what remains (or has suddenly become) feasible.

Despite the finding that most NGOs lobbied reactively in all four case studies, this is by no means the case for all of them. ECAS, for example, carries out ongoing empirical research into the ability of citizens to invoke freedom of movement rights through a monitoring service (Signpost) which is part-funded by the Commission. The material gained from such work is used to bring problems to decision makers' attention and has been the origin of decisions to hold public hearings in the EP. As noted above, coalitions of NGOs can be created in order to seek redress for exclusion from consultation or to promote a policy concern (eg the Clean Air Campaign). However, it is also true that certain NGOs' privileged status means they have less need to create opportunities to lobby; WWF, for example, is able to choose when and how to act, using its resources and insider status to determine priorities. By contrast, ECAS has to generate most of its opportunities despite a good reputation.

Strategic thinking is thus a prerequisite for successful NGO mobilisation. Likely supporters and key actors need to be targeted, and strategies tailored to them. As *demandeurs*, most NGOs are unlikely to enjoy sanctions for non-compliance with their wishes other than bad publicity (which, although often effective, can alienate decision makers and thus be futile in the medium term). Therefore NGOs tend to concentrate on mobilising likely supporters in the EU institutions, alerting them to problems and enlisting their aid by providing constructive solutions to these difficulties. This leads NGOs to concentrate on the EP, although national lobbying is often undertaken by national members of Brussels umbrella organisations; they rely on generating support in the relevant committee as a platform for the plenary vote, and thus hope to shape policy on the coat-tails of the EP¹⁹.

Central to this ability to develop strategy is the capacity to learn from experience. Although even wealthy NGOs may not have the formal quality control or strategy analysis mechanisms in place to do this officially, most NGO officers interviewed do assess campaigns and try to factor this analysis in to subsequent work. The lack of formal mechanisms may mean that this information is not widely shared in house, but within the wider NGO community there is information exchange about tactics and how to approach certain actors. Inclusion within the ranks of stakeholders to be consulted

¹⁹This point of view was held by actors in all the institutions and readily admitted by most NGO officers interviewed, although particularly in DG XI relations between officials and environmental NGOs can be extremely close. BEUC, for example, very rarely works on issues which are not subject to codecision in order to maximise likely success from limited resources.

has had an effect, causing a general improvement in both the practical input made by NGOs and the professionalisation of their media relations. Several interviewees noted that NGOs are now more constructive than in the past, for example selling green economics as business sense rather than business' antithesis. However, it remains the case that resource limitations may frustrate NGOs' attempts to rectify mistakes even when such learning has taken place, explaining their continuing reliance on methods which are known to be suboptimal.

Be that as it may, it is clear that EU actors consider NGOs potentially to be of great use as partners in policy delivery. Particularly in the Commission, actors can view the NGO community as a useful cover for a 'green' stance which cannot be openly declared with ease, particularly in a case such as Auto Oil where responsibility for the proposal was shared with formal equality between the DGs for the environment, industry and transport until the conciliation process had started. All actors can also gain progressive credentials from publicly siding with NGOs, increasing their own credibility with the public (which often ascribes greater legitimacy to NGOs than it does the EU institutions or other governmental bodies).

NGOs can also be useful sources of support for EU actors by enlisting national backing for policy proposals through lobbying in the member states. This ability to serve as coalition builders (or at least reducers of opposition) is also useful across and inside the Union institutions themselves; NGOs can act as proxies for officials or MEPs, building support in other sections of the Commission or before a vote in plenary session.

On a more mundane level, at least some NGOs are considered to be useful sources of advice on policy issues which can be trusted as interlocutors in discussions about strategy by MEPs and officials, making them active partners in policy communities. NGOs tend to be less conservative than the collective view of the member governments²⁰, providing an alternative opinion which can be influential in two ways: by countering industry/member state opinion, and by introducing an alternative, less technocratic perspective to the debate. Within a policy community, NGOs can be relied upon to co-manage projects (ECAS and the Signpost service), and can be favoured as an alternative to quasi-corporatism. The EP in particular was very opposed to the Commission's model for consultation on the Auto Oil dossiers, which favoured industry at the expense of NGOs, member states and the EP itself, meaning that

²⁰Although in the case of Auto Oil, it was the Commission which unusually adopted the most conservative position.

actors can have an institutional motive to support more pluralistic patterns of consultation.

Part 4: NGO Influence and Policy Making

It remains to assess the impact that NGOs were able to make in the four case study dossiers. I contend that at least certain NGOs were able to shape the content of each policy outcome, but that this is difficult to quantify precisely for several reasons. First, such success comes through membership of policy communities in which influence can be hard to attribute to any actor; second, NGOs are more able to shape the general stance adopted by an actor than the precise wording of legislation given their undersupply of textual amendments when lobbying; and third, such influence may not be publicly claimed by or attributed to NGOs if it is secured by a proxy such as an MEP. Such influence is above all the result of being considered a reliable source of credible advice. However, NGOs have no monopoly on such counsel, and find it difficult to persuade those whose ideological predisposition is not in keeping with their own.

All actors interviewed considered as a result of their ongoing experience that NGOs are able to influence policy outcomes, even if this was often thought to be less obvious or extensive than the reach of industry²¹. The case study dossiers provided numerous examples of NGO ability to shape legislation; for example, on the drinking water directive Greenpeace organised a massive letter-writing campaign which resulted in an alliance with the EP dedicated to preserving an overall limit for pesticides (rather than simply limits per substance). The Commission eventually accepted the related amendment despite its own scientific advisers' opinion that such a step was superfluous, thereby revising its proposal. On Auto Oil, the EEB was able to demonstrate at a press conference that the Portuguese refining industry was making misleading claims about its ability to produce cleaner fuel, which led to the Portuguese government withdrawing its demands for a derogation. On unit pricing, consumer organisations from the Netherlands were instrumental in shaping the position of the EP Rapporteur, and so on. Moreover, all MEPs interviewed reported that they would consult NGOs when Rapporteur on a proposal, and obtained useful advice about procedural matters or implementation problems from such discussions.

²¹For instance, officials working on dossiers in a policy area over time develop the ability to discern the source of changes in official positions even when this is not made explicit. 'Industry' was considered to be more likely than NGOs to shape national positions, however.

However, such influence varied according to the dossier and the ability of the NGOs concerned to construct the necessary alliances. The Auto Oil outcome was shaped by solutions presented by 'progressive' (i.e. greener) industries to problems raised by NGOs, the result of cooperation between the two groups of actors. Moreover, NGOs were able to ally themselves with at least certain member states, which were equally frustrated at their own exclusion from the consultation process, facilitating cooperation between environmental groups and those national governments which saw an interest in strong policy in the area (initially Scandinavia, Germany, the Netherlands; later, also Austria and the UK). The eventual outcome of the unit pricing directive was rather less shaped by 'pure' NGOs, although the UK Cooperative Movement (which represents both owners of small shops and consumers) was highly influential in shaping the position taken by UK MEPs including the Shadow Rapporteur²².

The key to such influence is the ability to provide credible policy advice, which in turn has three foundations: successful past collaboration, recognised expertise, and a large membership. Providing research-based evidence is considered extremely useful by all institutional actors interviewed, and this can allow an NGO to shape the positions of Commission actors when drafting proposals as well as those deciding their fate in the EP and Council. Furthermore, such research can even be co-funded by institutional actors if they perceive a commonality of interest²³. NGOs are also perceived to be helpful by EU actors in building links both beyond the member states (for example in preparing issue-based platforms for WTO negotiations) and within them, acting as emissaries for EU policy by explaining its content and impact to the citizen. NGOs can bring popular concerns to decision makers' attention and in pointing out the links between different policy areas (for example between competition and environment policies). However, the picture is by no means entirely rosy; institutional interests can outweigh NGO lobbying (for example, DG XX IV of the Commission was felt by NGO lobbyists to be relatively impermeable on unit pricing since the legislation was given a high political priority). Moreover, in some areas NGOs are simply not seen by EU actors as sources of useful

²²The Rapporteur is not always the sole MEP from a committee to follow a policy dossier in great detail. It is common practice for the larger party groups to appoint a 'shadow rapporteur' on reports they consider important but whose rapporteurship they did not secure in the process of inter-party bidding. This mechanism serves to ensure that each party group has its expert in different parts of a committee's portfolio, aiding division of labour.

²³Examples are WWF's research for the Framework Water Directive, and that undertaken by a Danish NGO into the Reuse and Recycling industry for use by the EP's Green group.

advice; for example, in the wake of the BSE crisis the reformed DG XX IV has not noticed a corresponding shift in NGO expertise to prioritise DG XX IV's (food) needs.

Once again, however, it is necessary to remember the importance of informal politics in EU policy making (Peterson 1995). NGOs have influence in a way which does not immediately meet the eye, for example by vetting lobbying strategies of other actors (such as trades unions). Capturing the support of key actors in a network can cause others to shift position without direct lobbying, since their own line on policy is partially dependent on those whose support the NGO has secured (for example MEPs and their fellow 'European'/national party members). NGOs will often work with party groups in the EP to try to influence the appointment of Rapporteurs in the same manner as industry; this can be particularly useful to both NGO and EP group when a larger party grouping routinely opposes them²⁴. Finally, NGO officers can, like members of subnational governments, be part of national delegations to the Council (as has been the case in Sweden)²⁵.

Access to the policy community is vital; once inside, NGOs can be extremely influential. Officials will seek advice from sources trusted by their political 'superiors'; consultation and a role in policy design is much more likely; in fact, *relations can be so strong that NGOs are seen by some institutional actors not as lobbyists but as colleagues* able to supply information otherwise unavailable through their participation in formal consultation with actors from other institutions. The window of opportunity for optimal lobbying is small, before a Commission proposal is public and yet after it has proceeded sufficiently in its deliberations to feel secure in exposing them to actors from outside 'la Maison': membership of the right community facilitates knowledge of when this point has been reached and thus affords a greater likelihood of making an impact. Moreover, former EU officials can take up posts with NGOs, bringing with them contacts and in-house knowledge which is invaluable.

NGOs can bring new issues to the EU agenda, such as the Blue Flag for water quality, the idea for which originated with a Danish NGO, or the research on endocrine disruptors now being undertaken (which resulted from an own initiative report by the EP [Kirsten Jensen: Rapporteur], itself the product of pressure from GLOBE).

²⁴The PPE (centre-right group), for example, has a reputation for opposing Green Party measures in a somewhat blanket fashion.

²⁵Although such officers would of course have to adopt a national rather than sectional view, they would clearly enjoy greater opportunities to shape the national position from the inside than from the exterior.

However, this in itself begs the question of whether NGOs' prime role is campaigning rather than shaping legislation. As shown by the Greenpeace campaign on pesticides, NGOs can affect the approach to policy making, breaking the Commission's reliance on scientific/technical data as the basis for water policy²⁶. NGOs can claim at least part of the credit for certain Treaty reforms: BEUC was among those who lobbied for consumer and public health policies to be made EU competence and were rewarded with Article 129 of the Maastricht Treaty, and ECAS headed a post-Maastricht coalition of NGOs seeking an anti-discrimination article in the Treaty, which secured the support of the EP and DG V and eventually helped realise the current Article 13. However, certain actors view NGOs primarily as sources of the sort of publicity which is not always desirable since it can detract from ongoing legislative work; in this view, NGOs' role is to galvanise public concern rather than shape legislation²⁷.

Whatever the accuracy of such judgements, it is undoubtedly true that *NGOs face great difficulty persuading actors to change their minds on a given issue*. If their perspective falls outside the parameters set for a proposal, then they are unlikely to make any impact: for example, the biofuels lobby was largely excluded from the talks on Auto Oil since a decision had been made in the Commission not to prioritise that particular issue. Actors and their individual views are of the greatest importance; NGOs can find both allies and opponents at every tier of the Commission hierarchy and in every committee of the EP. As a result, patterns of influence and maintaining membership of a policy community can be very complex: an NGO out of tune with a decision maker and unable to exert pressure on him/her to shift position (for example controversy in the relevant member state) is unlikely to be influential.

Added to this problem is the fact that (Brussels) NGOs are not the sole source of credible 'alternative' advice available to decision makers, most of whom have their own trusted advisors in many social sectors at both national and EU levels. NGOs may be part of this favoured group, or they may not; and certain actors prefer to use national organisations in order to feel more in tune with thinking in their member state of origin or because this avoids dealing with Brussels-level groups which may need to make too many compromises in devising a common position to provide strong

²⁶However, few actors in the EU institutions would allow NGOs to dictate their political line.

²⁷Indeed, one interviewee went so far as to claim that NGOs' use of the media was evidence of their failure to shape legislation by other means.

direction. In any event, it is common for actors to check the advice given to them by NGOs with other sources, at least until they feel credibility has been established. NGOs may thus be outflanked by other lobbyists or interest groups.

The risk of this is greater still when it is remembered that even actors favourably disposed to NGOs have to bear other concerns in mind; NGOs are sectoral by definition, and cannot often be seen as the sole necessary voice to be heard on an issue. Even 'industry' can be considered the citizen's ally by decision makers if, for example, it sees market advantage in measures which promote public health. Consequently, decision makers are likely to be allies rather than clients of NGOs, particularly as their jobs do not necessarily dovetail (for example Commission officials have to balance industry and NGO concerns, whereas NGO activists have the luxury of a freer hand).

NGOs are not always useful partners for EU actors: they can fail to mobilise sufficiently, meaning they are not present when needed; they can react to their own priorities rather than the legislative programme of the Union, creating frustrating asymmetries of resource demand and supply; interviewees felt that if the matter at hand is highly technical with no other significant component, then NGOs are unlikely to be useful as member states tend to side closely with industry as a result of a knowledge gap and the desire to protect employment and competitiveness levels²⁸. Moreover, as they can fail to see the need for compromise NGOs can actually be unhelpful to EU actors, attempting to persuade them to adopt untenable positions rather than strike feasible bargains. Following the official line too closely can be a further problem for NGOs: on unit pricing, consumer groups had little weight with certain actors in the Commission since they raised no significant problems and made few suggestions for the improvement of the proposal. Above all, NGOs can fail to create the relationships necessary for entry into policy networks by failing to follow up contacts and presenting themselves as useful partners to those they lobby. Given the nature of EU policy making, such oversight is at best highly unfortunate.

Part 5: NGOs and The Development of European Citizenship - Some Conclusions and A Suggestion.

It is clear from the case study that NGOs can influence the shape of EU legislation. Summarising the findings above, it is argued that the key to such influence is membership of the relevant policy

²⁸In this respect it is worth signalling that NGO effectiveness in the highly complex Auto Oil legislation was aided by the presence of a significant public health agenda in the legislation.

networks; persuasion of actors to change their position on any of the proposals studied was much less likely than shaping their contribution to legislation through provision of information (closing an information gap and/or providing a different perspective from established interest groups) and discussion about strategy in the context of (sometimes temporary) coalition construction. This influence may not be immediately evident given the fact that NGOs have to rely on other actors to put their ideas forward and that controversy may not help the NGO since success can depend as much on who fails to mobilise against them as who acts on their behalf. Moreover it stems primarily from EU actors' utilitarian judgements than from a claim to represent citizens; even where a representative claim was taken seriously by decision makers, NGOs needed to be suppliers of useful information which helped reinforce an actor's position to be taken into account.

NGOs are thus a useful channel of influence for the citizen with sectoral concerns, but one which requires several complements. NGOs may fail to mobilise on important issues, constrained by resources or prioritising according to other indicators than the EU's legislative programme. When present in the appropriate networks, they can fail to act strategically and are sometimes marginalised by other interested actors. However, many interviewees expected both EU citizenship and the role of NGOs in deciding policy to be developed further in the near future, as the ToA and growth of consumer and social policies affect the path of integration and as the style of policy changes (for example, it is likely that the water framework directive will include significant public reporting and consultation requirements, lending EU policy increased visibility and widening the opportunities for participation in its implementation).

Developing EU citizenship offers NGOs a role which operationalises their links with civil society in ways other than lobbying: acting as advocates of an active (EU) citizenship and showing the benefits of integration to the consumer/citizen. NGOs are only partial surrogates for EU citizenship, but they can be useful *ambassadors* for it. EU institutions have much to gain from such a demarche, as they have so far been unable to shape the public agenda or resonate with popular concerns so easily as many NGOs (such as Greenpeace, WWF or the UK Consumers' Association). Certain NGOs (such as ECAS) are already working in this direction, organising focus groups and citizens' assemblies to discuss EU policy issues. In this respect they can help create the necessary climate for the more participatory culture which is likely to be required if a success is to be made of EU citizenship (Bellamy and Warleigh 1998).

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