

Economic Theory of Lobbying:

Groups and Innovation

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It is impossible to understand the history of economic thought if one does not pay attention to the fact economics as such is a challenge to the conceit of those in power. An economist can never be a favorite of autocrats and demagogues. With them he is always the mischief-maker, and the more they are inwardly convinced that his objections are well founded, the more they hate him.

Ludwig von Mises

Appropriately thorough analysis should include an examination of the institutional structure itself in a predictive explanatory sense. The economist should not be content with postulating models and then working within such models. His task includes the derivation of the institutional order itself from the set of elementary behavioral hypotheses with which he commences. In this manner, genuine institutional economics becomes a significant and an important part of fundamental economic theory.

James Buchanan

Economists tell stories in their science, which is no complaint. Everyone tells stories, the toddler telling about the scraped knee and the paleontologist telling about the panda's thumb. A story can be good or bad. When it is bad in economics or other fields of expertise it can do damage. In the worst case the storyteller views the story as "stylized facts" or "approximations of the good" or something else free from critical attention. The uncriticized story is not worth living.

Deirdre N. McCloskey

His effort [...] was never to lay out an idealized picture of the "Good Society", but rather to get us to "think more about 'getting to' the better society and less about describing [our] own versions of paradise".

Peter J. Boettke about James Buchanan

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List of Underlying Publications

Chapter 2

Simon, Theo and Nils Goldschmidt. (2024). Lobbying is a discovery process of societal orders: Why lobbying is neither ‘naughty’ nor ‘nice’. Under Review: *Constitutional Political Economy*.

Chapter 3

Bolin Simon, Theo, Nils Goldschmidt and Friederike Welter. (2025). Who did it? Entrepreneurship on the Orient Express. Submitted to: *Journal of Evolutionary Economics*.

Chapter 4

Simon, Theo and Nils Goldschmidt. (2024). Productive lobbying: How spaces of interest representation promote social cohesion. Published in German language in: *Zeitschrift für Politik*, 71 (3), 277–90.

List of Abbreviations

LCA	Mancur Olson's <i>The Logic of Collective Action. Public Goods and the Theory of Groups</i> (1965)
GWB	Gesetz gegen Wettbewerbsbeschränkung, German Competition Act
PPR	Political property rights
BDI	Bundesverband der Deutschen Industrie e. V., Federation of German Industries
DDT	Dichlorodiphenyltrichloroethane

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Chapter 2

Figure 1 Action level (Own representation, based on Wagner 2014)

Figure 2 Action and system level (Own representation, based on Wagner 2014)

Chapter 3

Figure 1 Recursive relationship between individuals and context (Own representation)

Acknowledgements

What is knowledge and is it possible to acquire it at all? When I wrote my dissertation, there were discussions about what knowledge is, when artificial intelligence became the ‘next big thing’, and whether science and knowledge should be doubted all along, in the Covid-19 pandemic. Further, someone that not only lies but denies knowledge became president of the United States again. This is not an easy context to learn the hard truth about knowledge as a PhD student: The less you think you know, the more you know, and if you know that, then there is a chance that you acquired at least a piece of knowledge. So, after those last years I am confident enough to say: Knowledge can be acquired, what a relief, and it should be acquired. However, the doubtful context in which I tried to navigate my sometimes deep and sometimes shallow thoughts, made it even more challenging to not permanently doubt myself or the relevance of my work. It is probably my biggest achievement to overcome the doubts regarding my own qualities and at the same time remain a strong but benevolent critic of my work. I am deeply thankful for the people without whom this dissertation could undoubtedly not have been finished and without whom my personal development and sanity would not have made the progress I am so proud of at the end of this pilgrimage.

I want to thank my supervisor Nils Goldschmidt. Throughout my whole time at the Chair for Contextual Economics and Economic Education at the University of Siegen, which I joined at the end of 2020, I felt that he had trust in me and the process of my dissertation. Those who went through a dissertation themselves or witnessed others doing will know that trust in the own process and capabilities comes and goes as the tides. Therefore, the value of someone who reassures, motivates, or asks you to put the article you are working on aside and let it sink in cannot be understated. Nils not only enhanced the quality of my work but step by step taught me to trust in my own development by ‘supervising by example’. Besides all the influence Nils had on this dissertation, as a co-author and supervisor, I am deeply grateful for all the influences that he had on my thinking and personal development that occurred beyond the three projects in this dissertation.

I am grateful to Ekkehard Köhler for taking the role as the second reviewer of my dissertation. Although, my overlaps with his current research on economic education are only given through projects that are not part of this dissertation, his expertises on the economics of orders and public choice make him a perfect fit as a reviewer. Besides that, his passion for science is contagious and the discussions we had during countless lunches or colloquia were always rewarding and inspired me to think about other things than lobbying from time to time. One of

those things was dystopias, which was inspired by a few books Ekkehard brought to my attention. So, I spend parts of my first year into the PhD with reading *Walden*, one and two, and thinking about dystopias and utopias. This gave me a new perspective on the importance of deliberate processes for democracy and reassured me that the topic I am working on has some relevance. I am deeply thankful for the enlargement of my horizon.

In hourly, and sometimes daylong, doctoral seminars I learned that writing and thinking are two sides of the same medal. Therefore, I want to thank Friederike Welter who taught me that every word written is a piece of a puzzle and that a well written article is nothing but craftsmanship. Further, she unlocked my interest in entrepreneurship research and helped me see bridges between my work and the research field of hers. One article in this dissertation was written during three years of her workshops. Besides the room for own writing time she provides in her doctoral courses, she has created a space for exchange between doctoral students that goes beyond complaining about unfair reviews or annoying professors. Friederike incites graduate students to talk about their outlook for academia as if they were to decide, issues with its current state, but also personal struggles that affect how they view the world as young researchers. Especially in face of the endless doubts and troubles a dissertation brings, those spaces are precious and Friederike's commitment to young researchers – the future of entrepreneurship research as she would call them – is inspirational.

The companions. The pilgrims. The comrades. Or simply those who came along a part of or the whole way. I am thankful for everyone but will restrict myself to the following. Matthias Störring, without whom I probably would not have found my way to the Chair for Contextual Economics and Economic Education and who helped me learn how to walk on the path of graduation. Mark McAdam, from whom I learned to stay humble when I took a few steps and overestimated my own geniuses but who at the same time renewed my joy of thinking whenever I needed it. Marius May, the one who matches the image of a companion or fellow a pilgrim in the most literal way, with whom I shared the self-chosen burden of commuting and who enriched every hour whether in a car or a train with his optimism and honest nature. Marco Rehm, who was a steady reminder that there is a world outside of the PhD journey. Not only because of his tireless fight for sound teaching, that requires a doctoral student to leave his sometimes-confusing mind, cut to the crap and get the basics straight, but also because of his reliable work at the chair that not only gives me, but everyone there a degree of freedom we could not enjoy without him.

Somewhere on the way I learned about the entanglement of the political and economic sphere in society and its importance for the analysis of political economy. Sometimes it seems absurd that it is necessary to read two or three hundred pages to understand something that is right in front of one's nose the whole time: Entanglement makes us human. As much as politicians are never solely politicians but also economic actors as much I was never only a PhD candidate but a private person, too. Therefore, my work as a PhD candidate relied crucially on my personal surroundings.

Karla Schieferdecker and Erk Simon enabled my personal development since I can remember. When my scientific work was still limited to counting geckos and grasshoppers somewhere between Liguria and Tuscany in carefree summers, they helped me build a foundation of joy and curiosity for my pilgrimage through doubts and insecurities that were yet to come. I am deeply thankful for their support in the universal but still very personal struggle of growing up to life. What is of less importance for my personal development in the long-run but was regularly of huge importance for my sanity in the short-run was the opportunity to take their car to get from Cologne to Siegen. Thanks for sharing, guys.

They were not the only ones who ensured me save – and punctual – travels in the last years. I want to thank Manfred Luckas for the coffee in the morning when I picked up his car to get to Siegen, the Döner after I brought it back in the evening, the car itself, and all other occasions where no car was involved. All of those were moments where I could express doubts and worries unreserved and always felt understood.

Writing the acknowledgments is something warm. It is a moment of reflection. One could assume that this does not happen very often during a dissertation, because the articles and the responsibilities that come with a job at the university draw all attention from the reflection and leave it for weekends, holidays, or the time after the dissertation. I can count myself lucky, because Hanna Bolin, my partner, not only encourages me to reflect on myself and my priorities but also shows the courage to confront me when she senses a need of reflection. Her honest way of treating me makes it easier for me to treat myself with love. Would it not be for her engagement in civic matters, a significant piece of inspiration and motivation to complete this dissertation would have been missing. However, I am first and foremost thankful for her making me feel the warmth of acknowledgement daily and regardless of what is written in the following.

1. Introduction

We live in a time of multiple crises (Bündnis Entwicklung Hilft / IFHV 2024). The term ‘multiple crises’ refers to the simultaneous occurrence of various crises, such as climate change, war, and pandemics. However, it is worth questioning whether times of multiple crises are truly exceptional, or whether living in a world marked by concurrent crises is, in fact, the norm. As early as 1972, the first report by the Club of Rome addressed the limits to growth and their environmental consequences. At the same time, the Cold War and the arms race gave rise to fears of a third world war. In Germany, the inflation rate surged to an unprecedented level – over 7% in 1973 – during the oil price shock. This was undoubtedly a period of multiple crises.

Moreover, when focusing on marginalized or oppressed groups – such as women – it becomes even more evident that the absence of multiple crises is more of a privileged exception than a historical standard. In Germany, for instance, marital rape remained legal until the 1997. It is therefore urgent to begin analyzing society from a perspective that enables us to identify the structural patterns and underlying dynamics that contribute to both the emergence and resolution of such multiple crises.

This dissertation contributes to that effort by exploring and further developing our understanding of lobbying. Lobbying – defined here as the efforts of organized groups to gain or maintain political influence – often plays a pivotal role in both the genesis and the resolution of crises.

Lobbying is inherently about power, and throughout the history of the Social Market Economy, power has consistently played an integral role in economic analysis and policy decisions. Accordingly, the economics of order provide an appropriate intellectual foundation for this analysis (Goldschmidt and Wohlgemuth 2008). Furthermore, this tradition serves as a constant reminder that economics must be practical: The economy exists to serve the people (Lenger und Goldschmidt 2016).

The aim of this dissertation is to explore the idea of ‘lobbying for the people’. Each article contained within this dissertation represents a step toward this idea. However, no single article can fully answer the central research questions: What is the nature of lobbying, and how can lobbying be regulated in a way that enhances its productive potential? Addressing these questions is the objective of this introductory chapter. Before engaging in that discussion, a brief overview of the current state of research on lobbying and the three component articles of this dissertation is necessary.

1.1 Lobbying

Lobbying is part of every democracy. In contrast to corruption – an illegal form of political influence – lobbying is not only legal but also a legitimate and desired element of democratic systems. In Germany, the rights to freedom of association and freedom of expression provide a formal legal foundation for lobbying activities. Lobbying represents means of participating in the organization of society beyond the individual right to vote.

In this dissertation, lobbying is defined broadly as any attempt by a group – or one of its representatives – to gain or maintain political influence through legal means.

The lobby register records the activities of lobbyists in the German Bundestag (Deutscher Bundestag), since 2022 (BGBI. 2021, S. 818). In the respective law (Lobbyregistergesetz) lobbying is defined as follows (BGBI. 2021, S. 818, §1 (3)):

“Representation of interests is any contact for the purpose of directly or indirectly influencing the decision-making process of the bodies, members, parliamentary groups or groups of the German Bundestag or for the purpose of directly or indirectly influencing the decision-making process of the Federal Government.”

This definition differs from the one employed in this dissertation. It reflects a narrower understanding of lobbying as ‘inside lobbying’ (Polk and Mause 2023; Spohr 2023), which focuses primarily on direct contact with policymakers. In Germany, lobbyists are only required to register in the lobby register if they engage in direct communication with public officials. Other lobbying activities – such as media appearances, outreach to civil society groups, the publication of studies, and other forms of ‘outside lobbying’ – are not recorded in the register.

Moreover, current lobbying regulations apply exclusively to the federal government (Bundesregierung), while the governments of the individual federal states (Landesregierungen) are not subject to the same requirements. Due to Germany’s federal structure, effective regulation of lobbying must operate at multiple levels. To date, only a few German states have adopted frameworks comparable to the federal lobby register (Lobbycontrol 2025).

Germany’s integration into the European Union introduces another level for lobbying activity, governed by the EU Transparency Register (European Union 2025). This multi-level nature of lobbying has itself become a subject of scholarly inquiry (Eising et al. 2020; Spohr et al. 2025). The variety of organizational levels at which lobbying occurs, combined with the wide range of activities that fall under the term, has led to the emergence of multiple definitions and conceptualizations of what lobbying actually is.

Therefore, lobbying is a multi-faced phenomenon which is reflected in its interdisciplinary nature. The three disciplines influencing this dissertation are (i) political economy, (ii) political science, and (iii) management research. Depending on the scientific perspective, the focus of research interests differs but there are also intersections. For an overview of the scientific debate on lobbying consult the *Handbuch Lobbyismus* (Polk and Mause 2023).

Mancur Olson's (1965) *The Logic of Collective Action. Public Goods and the Theory of Groups (LCA)* is the one book that influenced the overall dissertation project the deepest, because it triggered my research interest in the different capacities of groups to organize. Olson's book is a critique of the assumption made by pluralists like Truman (1951) and Bentley (1949), that the power and influence of groups will weigh each other out in the political competition. He shows that from a rational-choice perspective small groups can reach their collective interest at the expense of larger, latent groups. His theoretical analysis culminated in the well-known 'exploitation hypothesis'. Olson's work is the seminal work on collective action in political economy. In his second, probably more known book *The Rise and Decline of Nations* (1982), he shows that his theory from *LCA* leads to the hypothesis that further developed nations tend to attract interest groups that are more interested in redistributing welfare to their members than engaging in pro-growth politics which would lead to an overall rise of societal welfare; this is called 'institutional sclerosis'. Olson's work is a deep analysis of the actors of lobbying: groups.

In political economy, the motivation of groups to influence political decisions are rents (Tullock 1967, Krueger 1974). Those rents are secured by favorable subsidiaries, tariffs, or other regulations (Stigler 1971, Posner 1974, Peltzman 1976, Becker 1983, Michaelis 1994). Those favorable regulations are a result of an exchange between lobbies and politicians. The politicians provide the regulations in exchange for information or contributions (Bernheim and Whinston 1986a, b, Austen-Smith 1987, Lohmann 1993, Grossman and Helpman 2001). From a political economy perspective, lobbying can cause 'good' and 'bad' effects on societal welfare. The provision of information usually leads to welfare increasing policies while the exchange of favorable regulations and (party) contributions usually leads to "protections for sale" (Grossman and Helpman 1994) that end up decreasing societies welfare.

In the history of thought in political science, Pluralism and Corporatism are the most influential concepts in the analysis of lobbying. Beside Olson's critique of Pluralism discussed above, it is argued that also the resources – not only the size – of the group determine its success in the political arena (Schiffers 2016). Those critiques and the striking empirical fact that there are groups that gain unproportional strong influence led to a decline of Pluralism as a paradigm in

political science in the 1970s. Since then, it had been replaced by the ideas of Corporatism (Alemann and Heinze 1979). The growing influence of non-state organizations such as unions and business associations and their special rights guaranteed by the government, were not compatible with pluralistic viewpoints. Some groups do have a higher capacity to influence politics, because of their size, resources, or their external given rights. Especially the business associations attracted more research by political scientists in the subsequent decades (Reutter 1991, Bennett 1998, Bennett and Ramsden 2007, Schmidt 2010).

The state sourced capabilities and responsibilities out to those associations and thereby decided which interest groups have privileged access to political decision-making processes. Those arrangements work best if societies consist of homogenous groups, that can easily be represented by a few large associations. However, this does not reflect the reality of modern democracies, which led to another paradigm shift in political science in the 1990s. Since then, the paradigm on lobbying research in political science can be described as “anything goes” (Zimmer 2003, p. 26). These days, political scientists are especially interested in multilevel lobbying (Eising et al. 2020, Spohr et al. 2025) and access (Bouwen 2002, 2004, Chalmers 2012). However, the different kinds of lobbying strategies are not of special interest for political scientists (Weiler and Brändli 2015; De Bruycker and Beyers 2019; Zimmer 2023).

The strategic aspects of lobbying are in the focus of the management researchers. This is not surprising given that businesses are incentivized to implement a political strategy in their pursuit of profit. The term ‘Corporate Political Activities’ describes corporate efforts aimed at exerting political influence. These activities are non-market-oriented corporate strategies (Mellahi et al. 2016, p. 144, Hadani et al. 2018, p. 2069, Tyllström and Murray 2021, p. 972). The most research is done to identify the effects of different non-market strategies on the accounting-based performance of the business (Gray et al. 2004, Lux et al. 2011, Ben Marzouk 2017, Adomako et al. 2023, Hussain and Tyagi 2024, Kim and Roh 2024).

The interdisciplinary nature of lobbying reveals the need to take a step back and view the bigger picture of what lobbying is. Similar to economic markets it seems that lobbying has the potential to enable people to participate in society and, if power is monopolized, to exclude people and their interests. This begs the question of how far transparency regulation will take us if we want to unfold the productive capabilities of lobbying? Competition policy goes beyond transparency regulations and prohibitions. It seems that regulators understood the need to make competition policies that describe desirable behavior and not only to reveal information about the state of markets. Besides the effort of the Federal Cartel Office (Bundeskartellamt) to make markets

more transparent, e.g. the disclosure of gasoline prices, it serves as a gatekeeper to economic power. It overlooks mergers and takeovers and ensures that the German Competition Act (Gesetz gegen Wettbewerbsbeschränkungen, GWB) is not violated. The big difference, from an economics of order point of view, between lobbying and the market is that we know far more about what conditions need to be fulfilled to enfold the productive capacities of the market than of lobbying.

This inside provides the starting point for this dissertation. Comparing lobbying with the market and price system is helpful to explore the nature of lobbying. As the market itself, lobbying is neither ‘naughty’ nor ‘nice’ (article number one), it is a collective and decentralized endeavor whose output cannot be controlled intentionally by an individual (article number two), and it needs regulation to enfold its productive potential (article number three).

1.2 Summary of the different articles

Article number one: “Lobbying is a discovery process of societal orders: Why lobbying is neither ‘naughty’ nor ‘nice’”

The first article of this dissertation is co-authored by Nils Goldschmidt and is currently under review at *Constitutional Political Economy*. Nils Goldschmidt contributed to the conception and revision of the article (20%). I wrote the manuscript and contributed to the conception and revision of the article (80%).

The article is a critical evaluation of political economy theories of lobbying (Bernheim and Whinston 1986a, b, Austen-Smith and Wright 1992, Grossman and Helpman, 1994, 2001). In political economy, lobbying is reduced to a logic of exchange. The lobbyist provides resources, either money or information, and the politician therefore decides either in the lobbyist’s interest or is assumed to make better decisions for society, because he has more information. If the lobbyist and the politician exchange money for favorable political treatment, lobbying reduces the welfare, i.e. it is ‘naughty’. If the lobbyists provide information and the politicians decide in the best interest of society, lobbying increases the welfare, i.e. it is ‘nice’.

We argue, that this strong dichotomy is not very helpful when we want to understand lobbying from a political economy perspective. The reduction of lobbying to a sequential decision-making process ignores (i) the social interaction that characterizes lobbying on the actor level, and (ii) the effect those interactions have on societal orders. We argue that the nature of lobbying

is more appropriately captured when we view it as a way to discover societal orders. Therefore, we view lobbying as a discovery process.

We propose a reorientation to the political economy roots of the theorizing about lobbying. Richard Wagner (2014, 2016) titles this reorientation towards Wicksell, Eucken, Buchanan, Tullock, and V. Ostrom ‘Entangled Political Economy’. He critiques political economy for becoming “overly narrow in its methods and topics of inquiry, thereby losing some of its initial promise of offering a new and productive orientation toward the social science” (Wagner 2022, p. vii). Political economy is the study of political institutions with economic means. As it is insufficient for economics in general to view the economy solely through the lens of equilibrium theories, it is insufficient for political economy to simply add the concept of equilibrium to the political sphere. We complement this approach to political economy by providing a conceptual framework that relies on transaction costs and the ideas of entangled political economy. While this framework does not provide the same analytical clarity as existing approaches it therefore includes the two elements of lobbying that existing theories are missing: lobbying as a social interaction and lobbying as a discovery process.

What characterizes lobbying is that the lines between a politician’s private economic interest and his responsibilities as an elected representative become fuzzy. A politician is never solely a political, but also an economic actor. This perspective invites a researcher to see society as one big network of actors, rather than isolated actors in different societal spheres (Goldschmidt et al. 2016). Those actors are entangled and engage in constitutional bargaining (Buchanan 1987, de Jouvenel 1993 [1945], Congleton 2011). Lobbying is therefore part of ‘checks and balance’ if power is not concentrated. The process of bargaining is what entangles the actors in the network. Sequential decisions are an oversimplification of bargaining. Conceptualizing actors’ behavior as sequential decisions is isolated while viewing it as part of a bargain and thereby acknowledge actors’ entanglement is contextual. The former is quiet while the latter is loud. The former is anti-social while the latter is social.

This bargaining on the actor’s level influences the system level of a society. Social interactions like bargaining and persuasion can influence the institutions of a society. We argue that this is a process of shaping institutions rather than fundamental and abrupt changes. With every bargain humans change the transaction cost structures of the matter they engage with. After every social interaction of a politician and a lobbyist, it is for each of them a little harder or a little easier to change some institutions towards his or her interests because the transaction costs have changed. We argue that this is how lobbying shapes society and leads to the discovery of

societal innovations, comparable to the market mechanism. The individual actors are driven by their pursuit of sovereignty, and through their social interactions they shape societal orders in a decentralized process. We illustrate how lobbying led to the emergence of orders in the period of 1949–1957 in post-war Germany.

This paper is the appropriate opener for the dissertation, because it introduces the most important literature and evaluates it critically. Besides that, the development of an own conceptual approach to lobbying sets the tone for the articles to follow: lobbying is neither ‘naughty’ nor ‘nice’. It is a social process that is an incremental part of liberal democracies.

Article number two: “Who did it? Entrepreneurship on the Orient Express”

The second paper is coauthored by Nils Goldschmidt and Friederike Welter and is currently submitted to the *Journal of Evolutionary Economics*. Nils Goldschmidt contributed to the conception and revision of the article (20%). Friederike contributed to the conception and revision of the article (20%). I wrote the manuscript and contributed to the conception and revision of the article (60%).

In this article we identify the lack of a collective action theory in entrepreneurship research. We argue that especially institutional theorists cannot explain societal change without answering the fundamental question of how individual action transforms into collective action. We provide a contextual explanation on this matter and show that individuals relate to each other because of their individual recursive relations to the contexts. Therefore, cascades can emerge that lead to collective action, i.e. institutional change, as an unintended consequence of individual action. Similar to Hercule Poirot in the all-time crime classic of Agatha Christie, researchers should not look for individual but collective action when they want to explain entrepreneurship.

The entrepreneur is often viewed as an individual (Schumpeter 1911, 1945, Kirzner 1973). Beside the growing evolution of this perspective towards a more procedural notion of entrepreneurship (Holm 1995, Delmestri 2006, Welter and Gartner 2017), there are multiple entrepreneurial theories of individual action: public, institutional, political, and social entrepreneurship. Even though the procedural perspective enters those research fields, too, they often rely on *the* entrepreneur, yet (Kisfalvi and Maguire 2011). Surprisingly, collective action just recently gained prominence in the field (Ben-Hafaïedh et al. 2024). However, a sound collective action theory is missing (Battilana et al. 2009). We provide a first step towards a collective action theory for entrepreneurship in this paper.

We treat entrepreneurs like every other person and therefore simply assume them to be self-interested. Further, we suppose they cannot envision what will happen in the future or what others will think or do. At the same time, they depend on others' actions if they want to be successful. Beside their goal, the intended consequence of their actions, their actions lead to unintended consequences. We argue that those are crucial in explaining why societal change emerges.

This article shows that the formation of groups – or lobbies – that try to change societal orders is, as it was argued in the first paper, comparable to the market and price system. The market and price system is a decentralized system that coordinates unintended consequences. The change in the price because of the demand of one actor is seldom the reason he or she buys the good. Usually, price changes are unintended consequences of individual behavior that signal e.g. scarcity to others, and vice versa. In the same way, we assume the context to be a coordinating system for unintended consequences. Individual behavior can, because of the recursive relation between the individual and their contexts, cause a change in the who, when, and where configuration of others, which can lead to a different behavior by others compared to a situation where the initial individual would not have done anything.

From collective action theories in political economy and behavior economics, we know that contagion effects can emerge because of a reduction in costs or a psychological effect, e.g. bank runs. If we incorporate this idea in our contextual view, it becomes clear that collective action can emerge through the contexts, if individual actions cause changes in the contexts in a way that a critical mass of other individuals change their behavior.

We use this argument to show why institutional change cannot be explained by 'biographical uniqueness' but is better explained by 'contextual uniqueness'. We use the case of Rachel Carson to illustrate this argument. It is her passion for nature and writing or her "independence and comfort with marginality, desire to perform, and a sense of agency and duty" (Kisfalvi and Maguire 2011, p. 152) that is used to explain her performative life. We agree that approaches like those can help to explain why Carson decided how she decided and did what she did, but that they are insufficient to explain the behavior by other relevant actors of the institutional entrepreneurship process. A contextual perspective that incorporates collective action in its explanations is viewed as the more persuasive theory.

Article number three: “Productive lobbying: How spaces of interest representation promote social cohesion”

The third paper is coauthored by Nils Goldschmidt and is published in the *Zeitschrift für Politik*. The publication is in German language. I translated the article for the dissertation to achieve more consistency. Nils Goldschmidt contributed to the conception and revision of the article (20%). I wrote the manuscript and contributed to the conception and revision of the article (80%).

In the article, we introduce the idea of productive lobbying. Entrepreneurial activities can enfold productive, unproductive, or destructive effects on society’s wealth (Baumol 1990). We translate this idea into the context of the Social Market Economy. We conceptualize lobbying as a form of entrepreneurship. However, this approach turns out to be not very fruitful when trying to define when lobbying is productive, unproductive, or destructive entrepreneurship. That is mainly because this idea is linked to a notion of productivity that is grounded on the relation of input and output. Our conception of lobbying, as developed in the first two articles, cannot be measured in rigorous economic categories. Lobbying itself is rather a practice that can be productive even if it does not happen to come with the highest possible effect on wealth or the most favorable input-output ratio. We argue that the most important indicator for ‘good’ lobbying in the Social Market Economy is social cohesion.

Alfred-Müller Armack’s (1950) work on ‘social iredics’ is the theoretical pillar for our understanding of social cohesion. Further, we view social cohesion as a cultural resource that is jointly produced and consumed (Goldschmidt and Simon 2024). Lobbying is a part of the (re-)production of a common cultural resource. It is – as a distinction to elections – a qualitative tool in the societal process of formulating a political will. Lobbying is comparable to a societal conversation and is productive, if it leads to meeting, coexistence and, at best, convergence of heterogeneous interest, i.e. if it promotes social cohesion.

Build on the ideas of Crouch (2008), Frey and Zimmer (2003), and Buchanan and Tullock (1962), we develop the idea of arenas of interest representation that promote productive lobbying in the above sense. We propose four institutional conditions that need to be satisfied by those arenas. Those arenas must (i) enable power-free representation of interests, (ii) be contestable in their composition, (iii) be subject to public scrutiny, and (iv) grant (partial) decision-making powers.

1.3 Findings of the dissertation

Lobbying is social by nature

What is lobbying? This question is implicitly raised throughout the whole dissertation. Therefore, the first necessary overall finding is an explicit answer to this question. The political economy perspectives on this question provide a good starting point for an own answer. In political economy research, lobbying is conceptualized as a form of exchange. Lobbying is viewed as an exchange between a politician and a lobbyist. This genuine economic definition is discussed and criticized in the first paper. Especially for an economist, this is a sound conceptualization because the phenomenon can be operationalized in economic terms. I argue that the most critical blind spot of these conceptions is that the social aspects of lobbying are not illuminated enough. The strong focus on formalization of social interaction leads to shortcomings in the understanding of the real-life characteristics of the agents of interest. Political economy lacks an institutional perspective on lobbying. It needs to be explained how the interaction of humans with multiple interests shapes societal orders. Therefore, the first article contributes to answering the question of the nature of lobbying by refocusing on the social aspects of it.: Lobbying is a social interaction that influences institutions and social orders, by changing the transaction cost structures of markets.

From an economic viewpoint, it is necessary to explain how individual action can lead to collective action. Otherwise, the idea of the first paper is barren, because in society only individuals act. The question of agency is fundamental to lobbying research. In the second paper, we formulate a first idea of how collective action can be incorporated in institutional entrepreneurship theory. Our theoretical argument that collective action can be explained by a contagion effect that is not only moderated by the cost-benefit ratio or the psyche but the context, provides the actor-based theory that complements the systemic theory that is developed in the first article (Wagner 2016). The collective action – and therefore the effects of lobbying – can be viewed as an unintended consequence of individual action. The social interactions of individuals take place in different contexts. The individuals are connected to each other by those contexts and can shape those. Therefore, they indirectly and often unintendedly influence how other people decide, by altering their contexts. This can lead to institutional change.

In the third paper, this idea of lobbying as an emergent phenomenon is picked up and we discuss implications for rule-based and productive lobbying. Lobbying was described as a social phenomenon and framed as a qualitative method to form politics. It is argued that the nature of lobbying is comparable to elections, they are both ways to express a political will and form

politics. However, in contrast to elections, lobbying does not make use of quantitative but qualitative measures to derive a decision. Institutions changed by lobbying are changed rather because of persuasion and compromises than because of one group outvoting another.

Lobbying is a social phenomenon, and highly relevant for economists, because it influences social orders and therefore the main framework of incentives for the economy. This becomes even clearer when focusing on the actor's level of lobbying. Lobbying as a collective action is only possible if individuals are capable and willing to organize, which itself relies on their contextual factor, one of which is social cohesion. Lobbying does not only influence the social cohesion of society but is itself influenced by it. Therefore, lobbying is an important factor to stimulate the welfare of a society. Not only does it influence social cohesion, but it is an institutional factor for economic growth. This formulation of the nature of lobbying, which is complimentary to existing definitions of lobbying, is the first overall contribution of the dissertation.

Lobbying brings innovation

In the first paper it is argued that lobbying shapes the transaction cost structure of societies. Therefore, lobbying can influence the likelihood of (social) innovation. However, it needs an innovative process to shape transaction costs structures in the first place. In the first paper, it is assumed that the actors are capable to form a collective. This assumption allowed us to illustrate what happens on the system level. The blackbox of how actors can form a collective is then open in the second paper. Here it is analyzed how actors can contribute to the entrepreneurial process that leads to the emergence of institutions, i.e. how changes in the transactions cost structures emerge from individual and through collective action. The process of lobbying is a decentralized innovative process; it is not the work of one great mind or a 'hero'. It is an ongoing trial and error process that leads to the discovering of innovations (Hayek 1978).

Therefore, a lot of effects caused by lobbying efforts are unintended consequences. This is a striking similarity between lobbying and economic markets. If we would presume that lobbyists intentionally cause negative effects on others, we would assume a very pessimistic idea of man. Just because people are self-interested, it does not mean they want to hurt others. As Adam Smith (1976 [1776], p. 18) puts it: "It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest". For lobbying the well-known passage could be rephrased: It is not from the malevolence of the lobbyist, the advocate, or the consultant, that we expect institutional change, but from their regard to their own interest.

This argument is in strong contrast to existing theories of lobbying in political economy. When lobbying is viewed as an exchange of contributions and beneficial regulations, lobbying does not lead to innovation but to distributional politics. This is not so much the case when lobbying is conceptualized as a way for politicians to get information that special interest groups possess. However, this view assumes that politicians do have the capacity to make society a better place if they get more information. What is overseen in this line of argumentation is that it is unclear how politicians can solve the problem of knowing what is good for society. Information by lobbyists therefore does not necessarily lead to ‘better’ decisions by politicians. Central authorities will always lack knowledge about the state of the world and decentralized modes of decision-making tend to solve the knowledge problem better (Hayek 1978, Wagner 2016). In Olson (1982) lobbying in relatively more developed nations leads to ‘institutional sclerosis’. I argue that lobbying is not only responsible for institutional sclerosis caused by ‘redistributional’ groups, but also for innovation and growth caused by ‘pro-growth groups’. That is even possible in institutionally developed nations, as long as the process of lobbying itself is regulated towards its productive ends.

This is the main point in this dissertation. Lobbying has the capacity to promote innovations comparable to the market. If it is designed as decentralized, and contestable, as possible, those innovative capacities are supported. This perception goes beyond the contemporary ideas that guide the lobbying policies in most democracies. Furthermore, this perspective allows us to view lobbying as part of the problem *and* the solution to the social crisis. But it also forces us not to condemn lobbyists as the bogeymen of democracy, but as the self-interested human beings they are.

New narrative of lobbying

I argue that there is more to lobbying than what political economists have described so far. The two prominent theoretical conceptions of lobbying in political economy, lobbying via contribution and lobbying via information, reflect the more public narratives surrounding lobbying which are coined by their disagreement. Lobbying is either ‘naughty’ or ‘nice’, you either love it or hate it. This thesis offers a new narrative as the most practical implication of the theoretical work done: Lobbying is like the weather or emotions; it simply makes no sense to oppose or defend it. Therefore, I close this introduction with a call for a new handling of lobbying.

In my bit more than four years as a doctoral student I had the chance to talk to a lot of people who can be considered ‘lobbyists’. The one who surprised me the most was the representative

of the Association of the Chemical Industry (Verband der Chemischen Industrie e.V.). He bluntly stood in front of a seminar of undergraduate students and full of confidence and with a smile on his face stated: “I am a lobbyist”. This situation was surprising. Representatives of bigger associations usually become defensive in those situations, because they anticipate the primarily critical question of a class of belligerent undergraduate students. However, he embraced it and looked for a conversation about his profession. We had a beautiful conversation about the responsibilities of associations and their relationship to democracy. After the seminar I gained the impression that most of the students were as surprised as I was and immediately let go of their preconceptions of ‘the bad lobbyist’ of big business. This anecdote gives an idea of what happens if we do not view lobbyists as the perpetrators and voters – or democracy over all – as the victims.

Collin Crouch’s book *Postdemokratie* (2008) is a prominent work that argues democracy is in decline, because of special interests that influence the political decision-making process and undermine the democratic ideal of ‘one person, one vote’. In this dissertation I discuss the idea of lobbying as a qualitative political decision-making technique as complementary to quantitative decision-making through elections. The democratic ideal of ‘one person, one vote’ can only be attributed to the latter. Lobbying does not include voting. The decision-making process through lobbying cannot be operationalized in the same way as an election. That means, and this might be a not so easy to swallow pill in a democracy: an equitable treating does not necessarily is an equal treating. Or, in other words, lobbying rather follows the idea of ‘million people, million voices’. It is important that decisions derived from a qualitative decision-making process reflect that, i.e. the decision needs to be a compromise rather than a consent. Throughout this dissertation I argue that social cohesion is a promising candidate to guide how individuals discuss and argue in society. It occurs to me that it is important to develop institutions, like the arenas of interest representation discussed in the third article, that force us to face different opinions and derive joint decisions. Those processes are necessary to determine what to vote on. Party programs, agendas, or policies, everything we can vote on needs to be qualitatively determined before we have something to vote on. Knowledge must be derived, and compromises must be made. Lobbying is part of the process that influences what we can vote on, therefore it should not be measured with the same ideal as the election.

It is fundamental to open this part of democratic societies and make it contestable for everyone. Lobbying is a social technique that can make millions of voices heard and influential in societal decision-making processes. Further, lobbying has unrevealed innovative capabilities that need

to be enabled by an appropriate order. I am convinced that if we embrace this view of lobbying, it is part of the solution of multiple crises rather than causing new ones.

2. Lobbying is a discovery process of societal orders: Why lobbying is neither ‘naughty’ nor ‘nice’

Theo Simon and Nils Goldschmidt

2024*

Abstract

Lobbying is a process of negotiation between different societal actors in their pursuit of sovereignty. It shapes the distribution of power in democratic societies and discovers interest groups’ wants and needs. However, lobbying is often analyzed as a sequence of choices and the relationship between politicians and economic actors is mostly described as a ‘one way street’. We argue (i) that the core of lobbying – as a back and forth of negotiations and exchange of sources of political power – is overlooked in political economy and (ii) that lobbying can be understood as a discovery process of societal orders. We use Wagner’s theory of entangled political economy to develop our arguments and make a first step towards an entangled theory of lobbying that places social interaction in the analytical foreground. The entanglement on the actor level caused by lobbying leads to changes in the transaction costs structure of markets and therefore to different emergent orders on the system level. We illustrate our theory by applying it to the process of lobbying between 1949–1957 in postwar Germany that preceded the emergence of the German Competition Act (*Gesetz gegen Wettbewerbsbeschränkungen*) in Germany.

JEL Codes: D72, L10, L40, O43, P16

Keywords: Lobbying, Transaction Costs, Entangled Political Economy, Emergent Order, German Competition Act

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2.1 Introduction

Lobbying in democracies is as sure as death and taxes. It is the process through which political power flows and political power will always flow. Anyhow, economic theories about the process of lobbying and its effects are an analysis of equilibria (Bernheim and Whinston 1986a, b, Austen-Smith and Wright 1992, Grossman and Helpman 1994, 2001). They demonstrate a logic of choices and predict the effects of those choices. The analytical clarity of these theories is an undisputable strength and they provide important insights into the process of lobbying. However, they have two blind spots: (i) They view the polity and economy as separated spheres and therefore overlook the process of negotiation that is incremental to lobbying; they reduce this social interaction to a matter of choices and (ii) they come with a connotation – ‘naughty’ or ‘nice’ – about the direction of the welfare effect of lobbying which is not necessarily plausible. Therefore, they exclude two incremental characteristics of lobbying from the analysis: (i) the nature of lobbying as a social interaction and (ii) the function of lobbying as a discovery process of orders. To discuss the blind spots of existing theories and provide a theoretical explanation for the process of lobbying that illuminates those blind spots is the purpose of this paper.

The theory proposed in this paper is a contribution to the literature of entangled political economy (Wagner 2014, 2016). Lobbying is described as a dynamic process and not in terms of a static equilibrium. Lobbying is the negotiation between different societal groups from different societal orders. It happens where societal tectonic plates, i.e. orders, intersect or rub against each other. If a government is assumed to be a centralized mind that operates on the economy, no lobbying – in the sense of negotiations and social interactions – exists. Lobbying is what happens when polity and economy become entangled within one system. Our understanding of lobbying is closely related to the concept of constitutional bargaining (Congleton 2011). In chapter two, we use the literature on entangled political economy to show how the demonstrative nature of the existing theories of lobbying causes the blind spots discussed above.

In chapter three, we develop a theory of lobbying as a phenomenon of an entangled political economy. We build on the ideas of Wagner (2012, 2014, 2016, 2022) on entanglement and emergence and on the literature on political property rights (Salter 2015, 2021, Salter and Young 2018, 2019). We suggest that social interaction and exchange between societal actors affect transaction costs. Those effects change the inclusiveness or exclusiveness of societal orders.

Lobbying that leads to more inclusive orders is regarded as beneficial for the society because it pushes society towards a liberal democracy.

In chapter four, we use the period of 1949–1957 in postwar Germany as a case study to show that lobbying is a process of bargaining between entangled actors and that those interactions have consequences for the emergent order: the Social Market Economy. Thereby, we complement the existing theories of lobbying and provide a theory that focuses more on the nexus of lobbying: social interaction and emergence of societal orders.

2.2 Lobbying is neither ‘naughty’ nor ‘nice’

Economists often assume politicians’ choices – whether they cooperate with a lobby or not – to be determined by the welfare function of their voters. Buchanan made this point prominent when describing public choice as “politics without romance” and Wagner contested the assumption that politicians have some kind of “guardian syndrome” and renewed Buchanan’s claim in his work about entangled political economy (Buchanan 2003, Wagner 2016, p. 14 f.). The role of politicians or the state in welfare economics as a *deus ex machina* would not have been easy to perpetuate if the polity and economy would not be seen as two separate spheres of society. The analytical separation of polity and economy comes with considerable caveats as Wagner demonstrated at different occasions (Wagner 2014, 2016, p. 31). For our purpose the most important one is that lobbying becomes inconceivably difficult to analyze as a process of social interaction if polity and economy are seen as two separated orders of society. The purpose of this paper is to show that the theories of lobbying are attached to the faulty perspective of polity and economy being separated and to develop a theory of entanglement as a first step towards a more appropriate understanding of lobbying.

The methodology of an entangled political economy is one of plausible reasoning and the theories of welfare economics are of demonstrative nature (Polya 1954, Wagner 2016, p. 16):

“The analytical boxes labeled ‘market failure’ and ‘market success’ are imaginary boxes that exist only within the framework of demonstrative reasoning (Wagner 2015). In contrast, plausible reasoning pertains to situations where people perceive situations that render them uneasy and which in turn induces a search for means to reduce that uneasiness. The analytical foreground is thus populated by people seeking to fashion institutional arrangements that allow them to overcome sources of uneasiness. Public good theory in its demonstrative mode presents a caricature of the actual historical possibilities open at any particular moment. Which possible option among a

menu of possibilities might be put in play at that moment will be generated through interaction among interested parties with within that particular societal setting.”

The methodology of demonstrative reasoning can also be found in the economic theories of lobbying. This is especially problematic because lobbying is a process of “fashion institutional arrangements”, *i.e.* a process of negotiation between different societal interests. Economists need to place this process in the foreground of the analysis and not a set of choices which they use to show – demonstrate – isolated effects on a societal welfare function. This is not to say that there is no merit in those exercises, but when analyzing lobbying it is crude to abstract from the very nature of lobbying; the societal process of negotiation (Wagner 2016, p. 19): “In these kinds of settings, outcomes are products of interaction and negotiation and not products of choice”. These kinds of settings are complex institutional arrangements which are characterized by a distribution of power and knowledge; democracy is a societal setting of this kind.

Welfare economics views the relationship between politics and economics as a ‘one-way-street’, just as demonstrative theories of political economy. Politicians decide about the fate of a passive society and the state of the economy is given *a priori*. There is the “presumption that political figures truly know what they are doing in working to modify societal outcomes and configurations” (Wagner 2016, p. 39). The politician’s role is to *react* on a market failure or a given information set. A market failure leaves the politicians with a set of choices to ‘correct’ the failure and the information set of a lobby or the offer of a certain level of contributions leaves the politicians with a set of choices. There is no room for interaction between those actors. There is only room for sequential action in one direction, from the polity onto the economy and the economy onto the polity. The reorientation on the interaction and negotiation between different entities of society leads to a ‘two-way-street’-perspective on the relationship between polity and economy. Negotiations are a ping-pong game of exchange and shape the minds of those involved and therefore their choices. Politicians influence the mind of economic actors and vice versa. This is neither ‘naughty’ nor ‘nice’, it just is a crucial part of a democratic society and lobbying. Therefore, it should be reflected in the theories analyzing this phenomenon. As we proceed it is our aim to persuade the reader that a theory of lobbying needs to be one of entangled political economy, because lobbying is precisely the entanglement of societal entities between different orders: „Political enterprises can influence the success of businesses, just as businesses can influence the success of political enterprises” (Wagner 2016, ix).

Lobbying is a form of constitutional bargaining to derive consent in a democratic society (de Jouvenel 1993 [1945], Congleton 2011). This consent is important to justify the power of governments (Wagner 2016, p. 23).¹ It is also the starting point of Buchanan and Tullock (1962), “where the formation of a system of government is a product of people using their prior rights of property” (Wagner 2016, p. 22). This process of bargaining is important not only for our purpose, but fundamental to most economic activities. It is, as Wicksell (1958 [1896]) suggests, prior to any political choice, i.e. any vote. In politics, lobbying influences votes and in the economy, it influences choices. Lobbying is not primarily a process of choices but a process before choices. It helps the democratic society to (re-)define the societal orders which are the rules of the game, i.e. the context of the choices.

We suppose that a comprehensive theory of lobbying should answer at least three questions: *Who* lobbies? *Why* do they lobby? And *how* do they lobby? The economic theory of lobbying provides an extensive body of literature discussing the actors (*who*), motives (*why*), and methods (*how*) of lobbying. From an economic perspective, the motive to lobby is to realize or secure possible rents (Tullock 1967, Krueger 1974, Congleton 1988). Because of this motive, lobbying is often regarded as an unproductive economic activity (Alchian and Demsetz 1972, Baumol 1990).² We conceptualize the lobby as a group phenomenon in general, and a contractual relation involving both informal and formal elements among different actors in particular (Olson 1965). Different arguments had been made about the effect of the size and kind of group lobbying on societal welfare (Olson and Zeckhauser 1966, Olson 1982, Becker 1983, 1985). We focus our analysis on the methods of lobbying (*how?*). Instead of narrowing our analysis to one specific method, we broaden our view and try to describe the process of lobbying. The process of lobbying is a process of negotiation that leads to the emergence of institutions which determine the orders and therefore the actions in a system that enfold beneficial or harmful effects on society. The process itself is described insufficiently by the literature analyzing the methods of lobbying.

Two very common methods (*how?*) of lobbying are making monetary contributions or providing information on an issue (Bernheim and Whinston 1986a, b, Austen-Smith and Wright 1992, Lohmann 1993). Lobbying via monetary contributions is analyzed within an agency framework (Holmstrom 1982, Bernheim and Whinston 1986a, b). In contrast to the basic

¹ We argue that the ability to ‘compromise’ is more important for a democratic society than the ability to ‘consent’. Anyhow, in the cited literature ‘consent’ is the more prevalent concept. Therefore, we use ‘consent’ in this article.

² Congleton (1988) asked whether the welfare gains of lobbyists count as positive welfare effects for society. This is not the case because these rents are unproductive and show high opportunity costs. Further, he showed that the losses anticipated by Tullock even underestimate the welfare losses for society.

principal-agent model developed by Holmstrom (1982), Bernheim and Whinston (1986a, b) discuss lobbying from a common-agency perspective. They assume that one agent is obligated to more than one principal. Politicians are agents of different principals, e.g. voters, and private interest groups. Politicians maximize a personal welfare function which is determined by personal utility and society's welfare (Peltzman 1976, Mitra 1999, Mallard 2014). Personal utility increases because of received payments, invitations, party contributions, etc. Society's welfare increases because of policy decisions in favor of the voters. These two inputs to the politician's individual welfare function can take different directions, especially if lobbying takes place. The private interest group might offer payments, or party contributions if the politician in turn enforces a policy which is in favor of the group's interest (Balles et al. 2024). This policy might regard e.g. trade protection from foreign competitors (Grossman and Helpman 1994) and has negative effects on society's welfare.³ Depending on the intensity politicians assign to individual interests and collective interests the negative effects on societies welfare differ.⁴

We want to highlight two focal points of this theoretical approach: (i) The politician is assumed to *act on* the economic system. Therefore, he conceptualizes polity and economy as separated. The *interaction* between the political actor and the other societal groups is ignored. That directly leads to (ii) a passive society, that is assumed to not being able to negotiate or influence the politician's decision about how to weigh societal interests. This view would be included in the theory if the politician were seen as *within* the same system as other societal actors, and not as an isolated actor in a social vacuum. It is not surprising that lobbying is negatively connoted within this framework. In the best scenario, all efforts by interest-groups cancel each other out. In this scenario the resources invested in lobbying are wasted from society's perspective, leading even the 'best' scenario of the model to predict a negative effect of lobbying for society. We argue that this happens because of the two blind spots of the common agency theory illustrated above. This results in (i) a theory of sequential choices instead of interaction and (ii) a tendency to judge contributions as a 'naughty' method of lobbying.

Informational lobbying tends to focus on asymmetric information, signaling and the resulting incentive structure, and only to a lesser degree on agency. It assumes from its outset the

³ Grossman and Helpman (1994) discuss common agency in the context of trade regulation and show that from a common-agency perspective tariffs, taxes, or "protection" generally are "for sale". Interest groups can buy their preferred policy in the market for political services. This is related to the literature regarding entry barriers of markets and the lobbying for protection (Stigler 1971, Oster 1982, Young and Magee 1986, Michaelis 1994). They focus on entry barriers in the market where a firm produces goods and discuss this problem from a competition rather than a lobbying policy perspective.

⁴ It remains unclear how a politician decides how to weight the different inputs.

prevalence of asymmetric information. The literature assumes politicians to be generalists who know few things in-depth about a wide range of topics (Potters and van Winden 1990, Austen-Smith and Wright 1992, Ainsworth 1993, Sloof 1998). When politicians are interested in regulating an industry, for example, they require specialized information about the industry. Interest groups are assumed to possess this specialized knowledge about specific industries. They are specialists who provide politicians with information which they need to create good policies but cannot attain without the help of interest groups. Interestingly, politicians use information only to further society's welfare. They do not have a conflict of interest between their own and the principal's interest. The individual welfare of the politician is only determined by society's welfare. Since interest groups only further their own interest and do not profit *per se* from increased societal welfare, they will only share information which leads to policies congruent with their own interests. Therefore, politicians need to decide whether they can trust the information provided by the interest groups; a signaling game arises. The literature identifies mostly positive effects on society's welfare, because the politicians can make better decisions because a wider set of information is available. The positive welfare effects of this kind of lobbying are more prevalent if there is intense competition between the interest groups (Becker 1983). Otherwise, the special interest group might have a monopolistic position in informing politics and can exploit this position in its own favor. Anyhow, more information is generally better for a rational actor. Therefore, lobbying via information is regarded as rather 'nice' for society. Further, this is the case because politicians are not assumed to have a conflict of interest between different principals and their own interest. They are assumed to behave accordingly to the interest of the voters and be capable of knowing what is in the interest of the voters in the first place. Those theories analyze lobbying from a perspective that romanticizes politicians' behavior.

Similar, to the caveats identified in the analysis of lobbying via contribution we identify two blind spots about the theory of lobbying via information: (i) The politician is assumed to possess a position where he can alter the societal composition and modify outputs, i.e. increase the welfare of society. But, as argued above, politicians are not capable of acting *on* a system, they act *within* the system and interact with other actors. (ii) A signaling game is a game of choices and not of social interaction. Independent actors make sequential decisions. That is not how lobbies transmit information and knowledge to politicians. They talk and negotiate with each other. Means of persuasion are a fundamental aspect of this process (McCloskey 1994, McCloskey and Klammer 1995). (i) and (ii) determine each other, again. If politicians would be assumed to act within the same system, the social interaction and the institutions governing that

interaction would come to the analytical foreground. As long as this reorientation is missing, the efforts of economists result in (i) a theory of choice instead of interaction and (ii) a tendency to judge information as a ‘nice’ method of lobbying that helps politicians with a guardian syndrome to make ‘better’ decisions.

Contrary to our implication over the previous paragraphs, the two discussed channels of lobbying, monetary contributions and providing information, are not always discussed as separate (Austen-Smith 1995, Bennedsen and Feldman 2006, Dahm and Porteiro 2008, Cotton 2009, 2012, Schnakenberg and Turner 2019). They can be complements and substitutes, and they are interdependent. Contributions can help the lobby to get access to politicians and promote informational lobbying, and they can work as a signal about the informational content as well (Austen-Smith 1995). If party contributions are capped and only possible up to a certain sum, it can have positive and negative effects on informational lobbying (Cotton 2009, 2012).⁵ The literature so far is rather narrow in merely assuming these two channels of lobbying. They are indeed mostly limited to the analysis of equilibrium outcomes and therefore miss the bigger picture of the process of lobbying. Lobbying as a social interaction and its effects on societal orders are ignored. However, both bodies of literature come with a connotation of the welfare effects caused by lobbying, even though the effects on societal orders are ignored. We argue that those depend on the context and a theory describing the phenomenon should be neutral regarding these effects *ex ante*. In short, an entangled theory of lobbying is missing that views the process of lobbying as more procedural and brings social interaction into the analytical foreground.

2.3 Lobbying is entanglement

In the preceding paragraphs we criticized that existing theories of lobbying suggest that political outcomes are to some extent products of a centralized mind and that the process of negotiation is in the analytical background while the choices stand in the foreground. The literature analyzing political property rights (PPR) is different. Political property rights are procedural and allow a polycentric perspective on sovereignty (Salter 2015, 2021, Salter and Young 2018, 2019). We use political property rights as a starting point to develop an entangled theory of lobbying. Political property rights “grant a share of governing authority and specify the returns that accrue to their holders” (Salter and Young 2019, p. 5). They cannot be held by government

⁵ Cotton (2009, 2012) discussed how taxation of or a cap for party contributions influences the informational signal. A cap for party contributions makes lobbying via information more attractive. Hence, it can reduce the informational content as well as it might distort the signal.

only. In fact, every societal entity can be entitled to certain political property rights which translate in some type of returns. Those can be subsidies or (partial) political power to influence decisions for a group. Both, the subsidies of the agriculture industry and the political power a parliament wields, can be described in terms of PPRs. Further, and probably more important, the distribution of political property rights can be viewed as a process of negotiation and not the outcome of a centralized mind.

Political property rights are subject to a process of constitutional bargaining and exchange (Buchanan 1987, de Jouvenel 1993 [1945], Congleton 2011). For our purpose the theory is especially important for the following reason: Sovereignty is object to contestability and constitutional bargaining. Therefore, it is an emergent and polycentric phenomenon. That is what lobbying is about: it is the process of sovereignty-seeking by entangled actors as it is described by the political property rights literature. We will use this perspective to argue that a contestable process of lobbying is important for a functioning liberal democracy. Because only if different societal groups can participate in this negotiation, it can be guaranteed that the *de facto* constitution departs not too far from the *de jure* constitution (checks and balances). The orders of a society that ensure a contestable process of lobbying will emerge as inclusive orders.

Further, we choose a view of society as a network of actors (Wagner 2012, 2016). Those actors are the entities which are capable to act in a society. The actions of certain actors are not restricted to an isolated societal sphere (Goldschmidt et al. 2016), a firm interacts with politicians, workers, costumers, and other societal groups. Therefore, entanglement emerges on the *action level*. Aggregated entities like “the polity”, “the economy”, or “the society” are not capable of actions and we avoid treating those as an individual, *i.e.* we do not assume some welfare function of a society or assume politics to act on the economy. These entities are on the *system level* of society and are not subject to conscious planning or action. They are the result of human action, not of human design (Ferguson 1767).

Action level

The process of negotiation between different actors varies between different contexts. To illustrate our theory, we use the example of a political (triangle in Fig. 1) and an economic actor (circle in Fig. 1). It seems to us that this is the most instructive example of lobbying, and it is in one line with what existing theories of lobbying assume. Therefore, it helps us to illustrate the difference between those theories and our theory as the setup is as comparable as possible. In general, and in the case study presented in the next chapter, lobbying can also take place

between solely political or solely economic actors. Those cases are not covered by existing theories, but they can be described by our broader framework.

On the action level of our theory the process of exchange between actors is analyzed (Fig. 1). As with every other market, the use of the market for political services induces transaction costs (Coase 1937, Alchian and Demsetz 1972, Alchian 1984, Williamson 1993, 2010). These are search, informational, and bargaining costs. A politician developing policy needs information about the issue at hand, resources to research pertinent information on the topic, and the political position to address these issues. Similar to economic actors who group up in firms, politicians form parties. The success of the politician depends, *inter alia*, on the resources he or she is entitled to. One way to gain a competitive advantage as a politician is to collude with a lobby. Since lobbies possess specific information about their members' activities and markets they act in, they hold a resource of value for politicians. They can devote resources to the politicians' organization, e.g. party contributions, and enable the politicians' organization to supply more or better political services or resecure their power, e.g. election support. As a result, the transaction costs politicians face on the political market change.

In the standard case of a lobby seeking beneficial regulation for their member, the lobby itself has an interest in the interaction because of the politician's power to provide the lobby with political property rights. Policies determine the structure of a market and can lead to monopolies (patent, closed-shop) or other sources of rents (labels, subsidies, taxes, tariffs, minimum wage). The pursuit of sovereignty of a lobby depends on the political property rights it possesses. Those can change the cost structure directly (Salop and Scheffman 1983) or indirectly by providing the lobby with a privileged market position, i.e. exclusively reduced transaction costs. Transaction costs of a market are like boarders to innovative, productive entrepreneurship (Coase 1937, Baumol 1982, 1990). High market entry costs because of transaction costs keep potential rivals out of the market, while low transaction costs lead to easier market entry for new entrepreneurs. Depending on the position of an economic actor, inside or outside of the market, she is interested in increasing or decreasing transaction costs, i.e. in encouraging or discouraging contestability.⁶

⁶ We hypothesize that high transaction costs on any primary market and on the market for political services may indicate strong lobbies. This hypothesis remains subject to further empirical research.

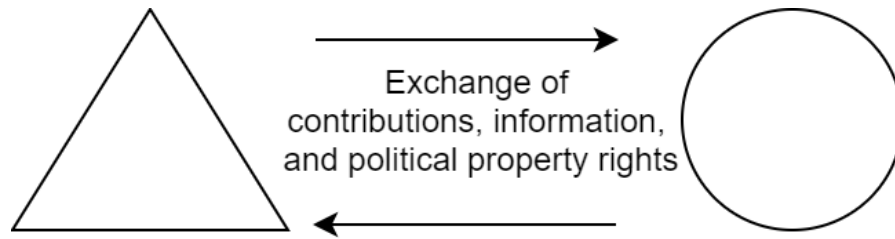


Figure 1 Action level (Own representation, based on Wagner 2014)

System level

The negotiations and interactions we call lobbying are knowledge-generating processes. What is done with that knowledge, *i.e.* what choices are made after that interaction, determine the societal effects of lobbying. The choices one makes follow directly from the societal interactions. No one decides in a social vacuum, everyone informs himself or gets persuaded by others. A framework of lobbying should therefore include this process which is prior to those choices. It generates knowledge that influences the context and the costs associated with said choices. We argue that it shapes the transaction costs political and economic actors face when they choose a certain path of action (Fig. 2).

We discussed earlier that an entangled theory of lobbying cannot reduce complex systems to demonstrative reasoning. That also means that we do not treat the polity or economy as organizations that can pertain in states of equilibrium (Wagner 2016, p. 41). We view them as orders which work together in a knowledge-generating process. They influence each other ('two-way-street') permanently and cause changes in the institutional arrangements which constitute the orders and shape the transaction costs actors face and therefore their choices. An equilibrium can never be reached in either system⁷ because the conditions and therefore the potential equilibria change permanently because of the ongoing social interaction of humankind.

Further, we view the polity and economy as emergent orders. In contrast to the existing theories of lobbying we want to contribute to the explanation of the spontaneous emergence of a pedestrian crowd and not the conducted performance of a parade (Wagner 2016, p. 56). Change in the economic or political system is therefore never exogenous. Change because of lobbying

⁷ The theory presented in this paper is on the system level. For further reading on the role of system-theory in entangled political economy see Wagner (2016, p. 55 f.).

as we understand it comes always from *within* the system. Just as the pedestrian crowd we do not have a conductor or director in our theory of lobbying. Even the most influential lobbyist will exert influence and not control. His influence on the system might be disproportionate, but it should not be mistaken with control (Wagner 2016, p. 61 f.). Otherwise, we would include non-democratic societies in our analysis. We analyze lobbying as a democratic phenomenon. Or, to put it in Wagner's words (Wagner 2016, p. 65):

“Political entities compete among one another just as do market entities, and with political and market entities also engaging in both competitive and collusive activities. Different patterns of entanglement will influence the systemic properties of political-economic interaction, though here I would stress influence and not control.”

The process of lobbying can influence the inclusiveness and exclusiveness of the emergent orders. PPRs might be distributed on the actor level in a way that makes it harder for some actors to enter certain economic or political markets; exclusive orders emerge. In other cases, the PPRs and resources might be distributed in a way that markets are more contestable leading to inclusive societal orders. We want to stress that an equal distribution of resources and PPRs does not necessarily lead to inclusive orders. Further, we do not think that there is a one-size-fits-all-solution which guarantees a certain degree of inclusiveness or exclusiveness of orders. Again, those are emergent phenomena and depend on the social interaction of the actors. Therefore, they are highly context sensitive. Our framework is also a call for more caution in the analyzes of lobbying. In contrast to the existing theories, we do not judge a certain method of lobbying as more beneficial for society than another. We argue that it depends on the effect on the societal orders whether a certain process of lobbying is beneficial for society or not. As economists we tend to sympathize with those processes that lead to more inclusive orders.

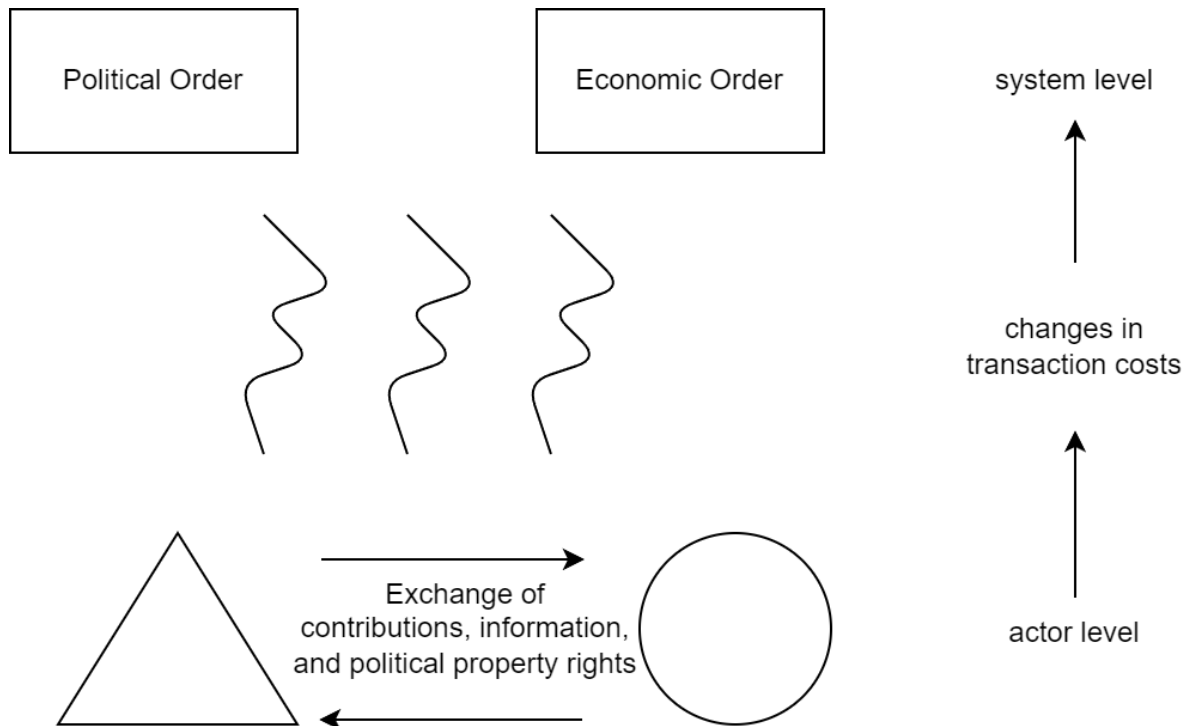


Figure 2 Action and system level (Own representation, based on Wagner 2014)

2.4 The German Competition Act as an emergent phenomenon of entangled actors

In the present work, we stated earlier that we want to persuade the reader that a theory of entangled political economy has some merit for understanding the process of lobbying that existing theories lack. We conclude this attempt by providing a new perspective on the well analyzed case of the genesis of the German Competition Act (Gesetz gegen Wettbewerbsbeschränkungen, GWB) in postwar Germany (Bundesverband der Deutschen Industrie e.V. 1968, Robert 1976, Murach-Brand 2004, Hesse 2013, Hardach, 2016). The GWB is often referred to as the constitution of the Social Market Economy. The fundamental meaning of the GWB for the German societal order is reflected in the length of its genesis which took nearly a decade in the postwar era between 1949 and 1957. Beginning with the Allies urging Germany to develop an own cartel law in 1949 and the GWB becoming effective in 1957, a period of lobbying is marked in which fourteen drafts of the law and endless attempts by interest groups to influence the law in their interest were produced (Murach-Brand 2004, Hardach 2016). This process of constitutional bargaining and fashioning institutional arrangements cannot be described sufficiently by one of the two theories discussed in chapter two. This

process was one of entanglement and emergence. Further, it was characterized by a heterogeneous distribution of political power. Political property rights were distributed among the different interest groups. A theory assuming “the state” to have the power to act on “the society” is set up for failure when describing the process of lobbying that led to the constitution of the Social Market Economy.

Five interest groups played the most important roles in the emergence of the GWB (Robert 1976, Murach-Brand 2004, Hesse 2013, Hardach 2016): (i) the Ministry of Economics (Bundesministerium für Wirtschaft) under the leadership of Ludwig Erhard, (ii) the US, (iii) France and Great Britain, (iv) the other German Ministries, and (v) the German industry, especially the Federation of German Industries (Bundesverband der Deutschen Industrie e.V., BDI) and its president Fritz Berg. Germany was ordered by the Allies to develop an own cartel law, and it was the Ministry of Economics (interest group i) responsibility to do so. However, the occupying powers tried to influence the specific configuration of the law in their own interest (interest groups ii and iii). They had the power to dictate a cartel law if the drafts developed by Germany were not aligned with their interest and they used this power occasionally to negotiate changes in the drafts developed by the German bureaucrats (Murach-Brand 2014, p. 143). Further, the interests of the Allies differed for the first years of the negotiations. While the US wanted Germany to ban cartels, the governments of France and Great Britain tried to persuade the Germans to follow their prewar tradition and implement a rather loose regulation that allowed collusions and only prohibited the misuse of those. It took up to the early 1950s for the Allies to act in unity (Murach-Brand 2014, p. 156). Finally, the perspective advocated by the US was supported by the three western Allies. The other actors, like the other ministries (interest group iv), used their power to influence the law, too. Different ministries advocated for exceptions in favor of the industries they were responsible for. Probably the loudest interest group in the analyzed period was the German industry (interest group v, Hardach 2016, p. 217 ff.). The correspondence between Fritz Berg and Ludwig Erhard shows an intense discussion about the pros and cons of a cartel-ban (Bundesverband der Deutschen Industrie e.V. 1968, p. 429 f., Murach-Brand 2014, p. 140 f., Hardach, 2016). Anyhow, the protest of the German industry could not stop the GWB from its emergence, after the Minister of Economics, Ludwig Erhard, came to an agreement with the Allies in the early 1950s. However, the national lobbies (iv and v) were able to slow down the emergence of the GWB for a couple of more years up to 1957.

Retelling the story on the actor level

The process of negotiation between the different actors was mainly a process of exchange of political property rights and information. The Allies granted Germany the PPR to develop their own cartel regulations. They then tried to persuade the German bureaucrats to follow a certain tradition of cartel regulations. In the first years of this episode, they had the power to take the PPR granted to Germany away and dictate their own cartel regulation. The problem in those years was their opposed interests in the German cartel regulations. After they overcame those differences, the emancipation of Germany became more important and the PPR to create a cartel law could not be taken back by the Allies anymore. They needed to derive a compromise with the German government, which they did in 1952. The ministries and the lobby of the German industry tried to secure exception from the law which can be conceptualized as PPRs just as any subsidy. In turn, they provided information and tried to persuade the Ministry of Economics to judge them in a way that the demanded exceptions seem conclusive. The correspondence between Berg and Erhard is especially instructive and shows the importance of social interaction as a main characteristic of lobbying. Berg's attempt was not only to secure some exceptions from the law, but he was an opponent of the law in general and the ban of cartels especially. He concluded his attempt to persuade Erhard with in the first paragraph of *10 Jahre Kartellgesetz 1958–1968*, a book published at the tenth anniversary of the cartel law, with self-confidence (Bundesverband der Deutschen Industrie e.V. 1968, p. I, own translation):

“I have never made a secret of the fact that I don't like German antitrust law. In 1952, in a letter to the then Federal Minister of Economics, Prof. Dr. Ludwig Erhard, which has gone down in post-war antitrust literature as the ‘Berg Sermon’, I set out my reservations about the concept of the ban on cartels – both in principle and in detail. I recently re-read my remarks from that time – and I must say – with some pleasure. For I was able to see that the arguments, fears and warnings I expressed at the time have since been largely confirmed.”

It is worth noticing that parts of the German industry (especially those represented by the BDI) hold more PPRs before the war, because collusions and arrangements between companies were mostly legal. So, the lobbying effort of the BDI should be viewed as an attempt not to lose too much of their political power by the newly developed law. This also explains the attempt by Berg to persuade Erhard not to ban cartels in general but to regulate the abuse of cartels (Letter from Berg to Erhard from 1952 in Bundesverband der Deutschen Industrie e.V. 1968, p. 429 f., own translation):

“Moreover, in the course of the intensification of global economic relations, German antitrust legislation should also be viewed from an international legal and political perspective. Since the end of the war, various bodies have been dealing with the problem of standardizing legislation against restraints of competition and the introduction of international cartel supervision. The Havana Charter, which was drawn up by 53 nations after years of study, is regarded as the most outstanding proposal. Only the principle of abuse is enshrined in the antitrust provisions of the Havana Charter. Further, the Council of Europe has also taken on this task and presented an initialed draft antitrust law. This also provides for the principle of abuse in line with the ideas of the Havana Charter. Other bodies, such as the International Chamber of Commerce and the European League for Economic Cooperation, are also committed to the principle of prosecuting abuses.”

Those firms who would profit from a regulation hindering cartels to emerge and exert too much power, were in favor of the GWB.

On the actor level, the process of lobbying in the years of the genesis of the GWB can be seen as one of intense negotiation and social interaction between economic and political actors as well as political and economic actors. The core of those interactions was the exchange of PPR and information. Throughout this process the actors became entangled with each other. The distribution of PPRs indicates that there is not one actor who has the final say. There is no entity as the “state” that can wield enough power to act on a system and set a certain institutional arrangement. Different societal actors can influence the decision-making process by possessing specific PPRs and information.

Retelling the story on the system level

The interaction on the actor level causes changes on the system level. Those are not directly intended consequences of the actions. The emergent process described above changed the transaction costs for the societal actors. For those parts of the German industry who were involved in collusions and profited from the non-existing cartel law it became more expensive to use the markets as they could not use their market power gained by the collusion with other firms. For firms which were excluded from markets because of the prewar collusions it became cheaper to use the markets because of the GWB. In short, the transaction costs of economic markets changed in a way that those markets became more contestable; the economic order became more inclusive. But not only the economic order was affected by the GWB and the emergence of the Social Market Economy. The political order became more open as well. The

Social Market Economy is not only an economic but a societal order that emerged through a process of constitutional bargaining and lobbying between 1949 and 1957. This process led to a change in the transaction costs economic and political actors face in Germany. The process of negotiation between different societal groups was not only characteristic for the genesis of the GWB but also for the subsequent period. The Concerted Action (Konzertierte Aktion) is another prominent example for the inclusive political order which emerged after – and because of – the GWB (Woll 2008, p. 454). Different societal groups come together and discuss economic and political challenges. Both, the economic and the political order were shaped by the interaction on the actor level and became more contestable and inclusive. The process of lobbying lead to the discovery of societal orders.

The case of the GWB illustrates that the theory of entangled political economy presented in this paper is needed to gain a better understanding of lobbying. The existing theories of lobbying are too isolated and follow a demonstrative logic that shows how certain lobby efforts affect a social welfare function. We argue that lobbying is a process that discovers what is in society's interest. To assume some interest of society and analyze lobbying as a sequence of choices is not sufficient to understand the process of fashioned institutional arrangements that is often the result of lobbying; as shown in the case of the GWB. Our theory contributes to a better understanding of lobbying because it enables one to understand the effects of lobbying as a process of social interaction and the emergence of orders.

2.5 Concluding Remarks

We argued that existing economic theories of lobbying are too isolated and have two caveats: (i) They view the polity and the economy as separated spheres of society leading to an understanding of politics acting *on* the economy. Further, (ii) the theories analyzed in this paper tend to judge certain methods of lobbying as 'nice' or 'naughty'. This is the result of a romanticized view of politicians with a 'guardian syndrome' knowing, wanting, and being able to act in (or against) *the* interest of society, *i.e.* the welfare function of society. We identified a need of a theory analyzing the social interaction that characterizes lobbying as democratic practice of social interaction, instead of theorizing about choices made by actors. We developed a theory that aims at illuminating those blind spots. We argued that the actors are entangled with each other, and do not operate in different and isolated social contexts. Those interactions have consequences for the social orders which we describe as changes in the transaction costs. In the concluding chapter we showed how a theory of entanglement can be used to analyze processes of lobbying that cannot be fully described by the existing theories. The era of the genesis of the

GWB between 1949 and 1957 was characterized by entangled actors with heterogeneous interests who interacted in a process of bargaining. A state with politicians acting on the society as well as any kind of social welfare function were far from existence in the era of reorientation. Both strong requirements for existing theories to be useful to understand processes of lobbying.

The theory presented in this paper brings this social interaction in the analytical foreground, thereby complementing the existing isolated theories. In contrast to those theories, we presented an approach that enables researchers to analyze lobbying as a mechanism of institutional change. We avoided the integration of a welfare function into our theory and therefore gained a more explanatory perspective on the process of lobbying compared to existing theories. We provided a first step in the direction of systemizing the analysis of lobbying in terms of entangled political economy.

3. Who did it? Entrepreneurship on the Orient Express

Theo Bolin Simon, Nils Goldschmidt and Friederike Welter

2025*

Abstract

Institutional entrepreneurship is a process of collective action. However, there is no robust theory of collective action in entrepreneurship. This article makes a step in developing an understanding of how individual action transforms into collective action. We understand individual entrepreneurs in a recursive relationship to the contexts. Further, we view institutional entrepreneurship as genuinely collective. Therefore, the shared contexts of the people involved in institutional entrepreneurship matter for explaining the who, where, and when of institutional entrepreneurship. One person's impact on the context changes the others' context which can cause a change in another person's behavior. These consequences of individual action are viewed as unintended. We use this evolutionary conception of institutional entrepreneurship to discuss the case of Rachel Carson from a new perspective. We argue that a contextualized perspective is better in explaining the case than a theory that builds on the "biographic uniqueness" of *the* entrepreneur.

JEL Codes: B15, D02, L26, O35

Keywords: Context, Collective Action, Institutional Entrepreneurship, Unintended Consequences

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3.1 Introduction

In Agatha Christie's famous murder mystery *Murder on the Orient Express* from 1934, detective Hercule Poirot travels on the Orient Express, when a murder occurs and the precious train is blocked due to a snowdrift. Poirot and the other passengers are locked in the train together with a murderer. After the detective interrogated every passenger, he presents two solutions to the nervous crowd: (i) a stranger disguised as a conductor entered the train, killed the victim, and left the train or (ii) all passengers worked together and killed the victim collectively. As it is in this all-time classic of crime, we suppose it is with entrepreneurship. It is not a mysterious individual but the collective that is responsible.

Collective action is ubiquitous in social life. That is not surprising because humans are social beings and need other human beings to survive and to make sense of the world. What is surprising is the fact that entrepreneurship research lacks a theory of collective action. How can we explain the behavior of agents of change if there is no sufficient explanation to how individual action transforms to collective action? In our view it is odd to talk about individual action and institutional change, but not about collective action.

In a first step, we argue that institutional change is caused by collective action and that institutional entrepreneurship also is collective action. By introducing ideas of collective action into institutional entrepreneurship, we show the need to open the blackbox of individual and collective action in institutional entrepreneurship. In a second step, we provide a theoretical explanation of how individual action becomes collective action that changes institutions. However, we do not rely on changes in cost-benefit ratios, as often advocated by political economists, or psychological effects, as analyzed by behavioral economists, but on changes in the contexts (Welter 2011, Goldschmidt et al. 2016).

We assume entrepreneurs to behave self-interested. We further argue that they cannot know what their behavior causes in others' minds and their behavior. However, to be successful they depend on the reactions of others.¹ We understand those reactions as consequences of the individual entrepreneurial action. Besides the intended consequences, which are the goal of the self-interested entrepreneur, there are unintended consequences. We view those as especially important to understand societal change. There are infinite possible reactions by others which are crucial for entrepreneurship. The market and price system are often viewed as a

¹ For the sake of simplicity, we focus our argumentation on the institutional entrepreneurs as active and others as reactive actors. However, the institutional entrepreneur herself is reactive to its context and therefore the entrepreneurial actions itself can be interpreted as unintended consequences of other actors' actions. The relationship between institutional entrepreneurs and their context is recursive.

decentralized system through which those reactions – the unintended consequences – are coordinated. We argue that whether individuals contribute to a collective cause depends on a certain constellation of the who, where, and when, i.e. the context (Welter 2011). Therefore, the context is also a decentralized system through which unintended consequences are coordinated.

Finally, we argue that this theory is better in explaining institutional change than a theory that focuses on ‘biographic uniqueness’ of the individual entrepreneur. We exemplify this with a case study of Rachel Carson. We argue that institutional entrepreneurship is collective action, which emerges because of unintended consequences of individual action but does not happen by accident. The institutional change can be explained by a ‘contextual uniqueness’.

3.2 Collective action in entrepreneurship

The entrepreneur was often thought of as an exceptional individual that enables innovation and growth and seeks opportunities (Schumpeter 1911, 1942, Kirzner 1973). This idea becomes less and less popular. The exclusive view of the entrepreneur who emerges in society as a ‘deus-ex-machina’ seems obsolete and the complex interplay between structure and agency (Holm 1995, Delmestri 2006), and contexts (Welter and Gartner 2017 Ben-Hafaïedh et al. 2024) is analyzed. Researchers look for explanations why and how people behave entrepreneurial instead of glorifying the solo entrepreneur, the genius, that fulfills the wishes of researchers as they struggle to explain how societies change. Ideas like every-day entrepreneurship (Welter et al. 2016) show that there is an urge to broaden our understanding of entrepreneurship. Recently, collective action became a new focus for understanding entrepreneurship (Ben-Hafaïedh et al. 2024). However, entrepreneurship research still lacks a theory of collective action (Battilana et al. 2009).

But, there are a variety of theories of individual action, building on different conceptions of entrepreneurship that potentially can influence systems: public entrepreneurship (Ostrom 1965, Klein et al. 2010), institutional entrepreneurship (DiMaggio 1988, North 1994, Li et al. 2006, Battilana et al. 2009), political entrepreneurship (Dahl 1961, Polsby 1984, Wohlgemuth 2000), and social entrepreneurship (Dees 2001, Mair and Martí 2006, Peredo and Mc Lean 2006). All of them offer insights of how people change the systems they live in in productive, unproductive or evasive ways (Baumol 1990, Coyne and Leeson 2004). Some of those entrepreneurs work *on* systems (institutional entrepreneurship), others work *within* systems (political

entrepreneurship and social entrepreneurship) (Boettke and Coyne 2009).² The former engage with the rules of the game, while the latter change organizations, policy outcomes, or pursue some social cause within the rules of the game.

The institutional entrepreneur was introduced to institutional theory to explain institutional change despite the stickiness of institutions. Institutional entrepreneurs serve “as catalysts [...] and take the lead in being the impetus for, and giving direction to, change” (Leca et al. 2009, p. 3, Eisenstadt 1980, Colomy and Rhoades 1994, p. 554). This idea underlines the importance of *the* entrepreneur. Battilana et al. (2009) show a more nuanced debate, exploring the enabling conditions for as well as characteristics of institutional entrepreneurship. Further, the authors highlight the importance of using discursive strategies to change institutions. That shifts the focus from *the* institutional entrepreneur to the actions of institutional entrepreneurs and the contexts in which it takes place. Similarly, other authors identify a shift in institutional entrepreneurship research away from the view of the entrepreneur being a ‘heroic’ individual or a ‘deus ex machina’ (Delmestri 2006, p. 1536 f., Meyer 2006, p. 732). That leads to a process of rebalancing both sides of the ‘paradox of embedded agency’ (Holm 1995, Seo and Creed 2002) in institutional entrepreneurship research. Institutional entrepreneurs are better characterized as embedded actors. At the same time, they are agents of change and can transform the institutions, i.e. the structure (Elert and Henrekson 2017). This is where collective action fits in institutional entrepreneurship: Individuals are embedded in collectives.

“I would prefer that analysts treat entrepreneurs involved in institutional transformation the same way as they treat other humans, using the same concepts and principles: no heroes, no farsighted visionaries, and no feckless fools. Institutional entrepreneurship is accomplished by entrepreneurs, but through collective action, not omnipotence and clairvoyance” (Aldrich 2011, p. 2).

Our argumentation leads in the same direction: Institutional entrepreneurship is closely tied to collective action (Aldrich and Fiol 1994, Aldrich 2010, 2011). Battilana et al. (2009, p. 89) make a similar point when they describe “agency to be distributed affords a more realistic view of institutional processes as political and non-deterministic, and dependent on the actions and reactions of multiple actors, as being by definition uncertain.” We follow their call for “a robust theory of collective action among institutional entrepreneurs and other actors in the field”. The “realistic view” that Battilana et al. (2009) demand is here understood as acknowledging the

² Public entrepreneurship is not easy to grasp within the simple dichotomy promoted above. For a more comprehensive discussion of public entrepreneurship see Klein et al. (2010).

unintended consequences (Smith 2009, Lambert and Coyne 2023). Those are unpredictable (social) outcomes that emerge from individual action (and the interaction of individual actors). They lead to a situation where collective action diverges from individual intentions. Processes of institutional change are often unintended, not just to be explained by market interaction.

We therefore need to recall some fundamental insights of collective action theory. In political economy the question of how collective action and institutions are connected has a long tradition. In his seminal work *The Logic of Collective Action* (1965, *LCA*), Olson developed the theoretical foundation for a rational choice approach to collective action. At this time the entrepreneurial element of collective action was not so much of interest and even when it was, it was expected to be an individual (political) entrepreneur (Wagner 1966). Many years later Elinor Ostrom published her well known empirical exploration of commons delivering the empirical foundation of collective action (Ostrom 1990, Herzberg et al. 2019). From her field work she derived theoretical implications for collective action that were more optimistic than preceding approaches by Olson and Hardin (Olson 1965, Hardin 1968). Similar to Wagner's approach in his review of Olson (1965), Ostrom introduced an entrepreneur: the public entrepreneur. An individual, official, businessman, or citizen, that solves collective action problems. Ostrom and Wagner focused on the individual entrepreneur in their explanations of emergence of collective action. However, there is another part of the literature that argues that the actions of individuals and how they are entangled are more important to understand the emergence of collective action.

Critical mass models are of special interest for research interested in collective action (Simon 1954, Schelling 1960, 1978, Granovetter 1978, Marwell and Oliver 1993). This literature is directly connected to Mancur Olson's *LCA* (1965). The critical mass literature is – in a broad sense – interested in the mobilization of masses. Methodological individualism is the starting point in these discussions. Essentially, the underlying research questions are: Why do people cast the first stone and why do other people join the collective? Or put differently: How do we get from individual action to collective action? Beside Schelling's well-known segregation model (1971), revolutions are of special interest since Granovetter's and Schelling's fundamental work on critical masses in the seventies (de Mesquita 2010).³ The central element in the mobilization of masses is a cascade of contributions to the collective cause. This idea is directly related to Herbert Simon's treatment of the voting and the bandwagon effect (1954,

³ In the *Oxford Handbook of Public Choice* Kuran and Romero (2019) dedicate this research an own chapter: "The Logic of Revolutions: Rational Choice Perspectives".

Kuran 1978). Beside the long tradition of collective action in political economy, economist analyze contagion effects from a behavioristic perspective (Bixter and Luhmann 2021, Deldoost et al. 2024). Contagion effects are changes in individual preferences caused by observed actions. They are typically measured by using controlled experiments or brain imaging. Contagion effects, which are a main cause of bank runs or premature sales of shares, are nothing else than cascades of a certain behavior.

For our purposes, we conclude that cascades or contagion effects are ways to explain social change and unintended consequences that are caused by the interaction of individuals. Those chains that lead from individual to collective action are explained by either changes in cost-benefit ratios or psychological effects, whilst the context is overlooked as a potential explanation for why cascades emerge. We complement those approaches by introducing an explanation of how the configuration of who, where, and when contexts lead to cascades, or contagion effects, and thereby contributes to societal change.

3.3 Theory of collective action in institutional entrepreneurship

In the last decades, context received more attention from researchers (Gartner 1995, Welter 2011, Goldschmidt et al. 2016). Even though the attempt to understand social phenomenon within its contexts is not new to economics, the understanding of what context is widened. Beside it being viewed as a set of discrete characteristics, context was also conceptualized as “lens” that guided the researcher’s view (Johns 2006, Welter 2011). Contextual thinking means understanding the actors together with the space, and the time in which they act. To understand who acts, i.e. who behaves entrepreneurial is the first step. The who also explains what ventures are created. The where can be distinguished further in four dimensions: business, social, spatial, and institutional. The spatial dimension of context is not limited to geographical spaces but includes e.g. societal orders (Goldschmidt et al. 2016). The third dimension that guides contextual thinking, the when, emphasizes the importance of historical and temporal dimensions for contextual economics (Welter 2011, p. 167 ff.).

To analyze social phenomena through a contextual lens means to view the world in an ever-transformative state. Goldschmidt et al. (2016) argue that contextual economics therefore can be viewed as transformation research. For the same reason, we view our argument as an evolutionary argument (Aldrich and Martinez 2001, Witt 2008, 2018). To explain institutional entrepreneurship from an evolutionary perspective, the interplay between processes, contexts, and outcomes needs to be in the center of the analysis. Theorizing about institutional

entrepreneurship from an evolutionary perspective also means to formulate a dynamic theory and to explain the interaction between processes and contexts (Aldrich and Martinez 2001).

We want to explain how collective action can emerge because of the recursive relationship between individual actions and their contexts. The idea of a recursive relationship between individuals and their contexts considers the view of institutional entrepreneurs as embedded agents. The context is not a determinant of individual action in the sense that the influence between them is a one-way street. People are embedded in different contexts and they do have the capacity to change those contexts. This entanglement reflects the understanding of institutional entrepreneurship as a process that we discussed in the section before. If we accept this recursive relationship between individuals and their contexts, it follows that there is a connection between individuals through their shared context (Fig. 1).

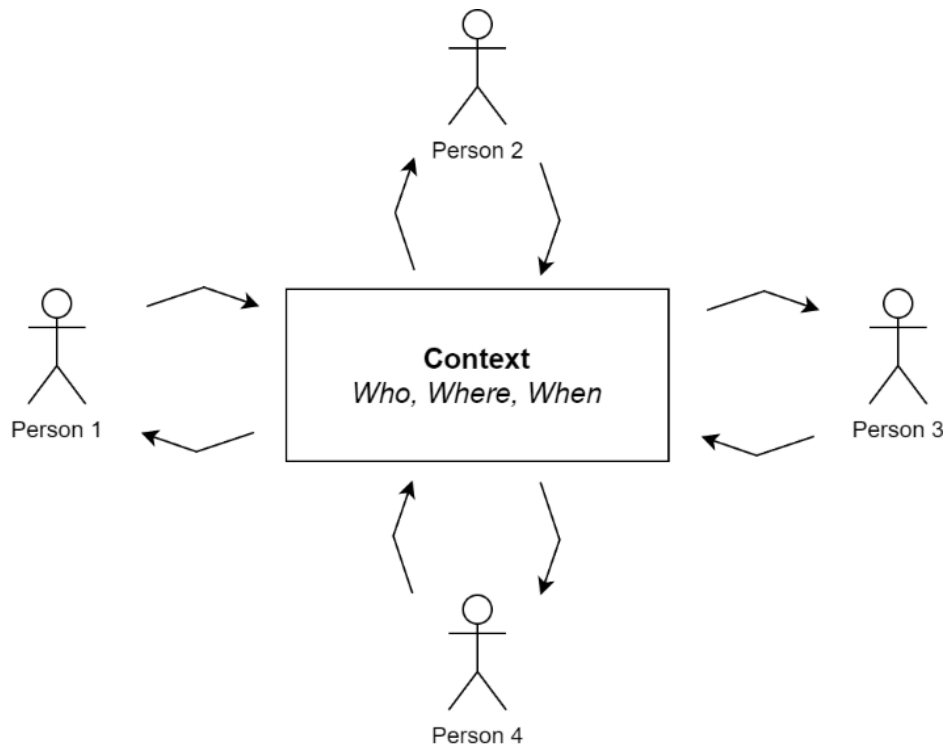


Figure 1 Recursive relationship between individuals and context (Own representation)

If we understand the context as common ground between individuals, even though they might perceive it differently, it becomes clear that one person's action does not only change the context, but thereby can influence the other persons' actions, too. If one person's action modifies the constellation of the who, where, and when for others, this can cause people to act differently as they would have without a change in that constellation. This is the same kind of argument

that was formulated by political economists and behavior economics and discussed above. However, those researchers referred to cost functions or people's psyches as the link between one's action and another's. We argue that people are also connected through the context(s) they share.

The idea of effects through the context are now easily implemented, since they are nothing but a chain of the recursive relations described above that involve more than two people. If the action of one individual causes a change in the context of another individual that leads to a different action by that second person, it might be the case that the action by the second person in turn changes the context again, causing a behavioral change in a third person, and so on. Obviously, there are multiple different possible outcomes, and multiple other scenarios that can emerge. It is never sure that a certain action or a certain context will enable collective action. We argue that the context is highly relevant to explain individual *and* collective action.

The change in behavior by others through a change in context is viewed as an unintended consequence. We argue that individuals cannot fully predict the change in behavior caused by themselves and plan their action accordingly. No individual has the knowledge necessary to do so nor is this required to participate in institutional entrepreneurship. Institutional entrepreneurs can of course hope that their actions incentivize other people to act in a way that new institutions emerge, or existing institutions are altered. But the precise way of how this institutional change unfolds and how others react is not predictable. Furthermore, we argue that those changes are often unintended and by-products by the self-interested behavior of the people involved.

3.4 Contextualizing Rachel Carson and the environmentalist movement

Institutional theorists view Rachel Carson as an institutional entrepreneur (Kisfalvi and Maguire 2011). Kisfalvi and Maguire (2011, p. 152) use her case to illustrate their argument that her projects are expressions of passion and three aspects of character: "independence and comfort with marginality, desire to perform, and a sense of agency and duty". The analysis of the 'biographic uniqueness' of entrepreneurs might help explain why the entrepreneur behaves how he or she behaves, but it does not help to explain other actors' behavior. We do not view personal traits as a promising explanation for institutional entrepreneurship, because they do not explain how collective action emerges from individual action. Therefore, we retell the story of Rachel Carson from a contextual perspective to show how the 'contextual uniqueness' of the institutional entrepreneurship rather than the 'biographic uniqueness' of the entrepreneur can explain the institutional entrepreneurship.

Rachel Carson had a passion for writing and nature (Lear 1997, Quaratiello 2004, Kisfalvi and Maguire 2011). We do not neglect these well documented characteristics, but we do not think that they can explain why the emergence of the environmentalist movement and multiple changes in environmental institutions are closely connected to Rachel Carson, especially the publication of *Silent Spring* in 1962. In contrast to Kisfalvi and Maguire (2011, Figure 1) we do not view the institutional change Carson contributed to as an expression of her passion for writing and nature in the sense that there is any causal link between Carson's personal interests and institutional change. We view her passion as what it was: Carson's self-interest that motivated her to do what she did. Obviously, individual motivation is important, but it is not sufficient to *explain* a collective outcome. It is the interplay between Carson's actions and the multiple contexts that need to be analyzed if we want to explore how Carson's individual actions led to collective action, i.e. institutional change.

The question remains: Why is it, that Rachel Carson's *Silent Spring* published in 1962 affected the institutional change of the pesticide regulation? In a first step, we shortly discuss four different contexts which we view as especially important to explain how contextual factors shaped Carson's action: her social network, the financial, political, and the household and family context. This is a necessary step even though we are interested in Carson's effect on the context, she did not start in a context-free world. In a second step, we show how *Silent Spring* influenced the context of other actors and therefore their decision-making and the institutions governing the use of pesticides. Overall, we provide an illustration of the recursive relationship between Carson and her contexts as well as her entanglement with other actors through a shared context.

Financial context

Rachel Carson was born on May 27th 1907 in Springdale, Pennsylvania (Lear 1997, Quaratiello 2004). Her father had several jobs; among other things he was a salesman and an electrician. His fluctuating career was not sufficient to guarantee a stable financial background for his family. Rachel Carson was the only of three children to achieve higher education. After she went to High School and graduated first in her class in 1925, she enrolled in the Pennsylvania College for Women in the fall of 1925 as an English major. Her tense financial background made her dependent on scholarships and part-time jobs. This situation did not change with her graduation from high school. If she wanted to follow her passions, she was bound by her financial constraints, that influenced her decision-making immensely for most of her life. In 1929, she began her graduate studies at John Hopkins University, which she financed by

teaching a summer school at John Hopkins and a seminar at the University of Maryland. It took her until October 1935 when she began to work part-time at her soon to be full-time employer, the Bureau of Fisheries, to get a steady stream of income. In 1936, she was offered a full-time position as junior aquatic biologist. The job provided her with a stable financial situation for the first time. Besides her interest in nature and writing, the decisions in the first half of her life were at least partially driven by the need to generate a steady income to achieve some degree of stability and security. After 1949, her financial situation became easier. She received a book contract for her second book and a Saxton Fellowship (Quaratiello 2004, p. 45 f.). In 1951, she received a Guggenheim Fellowship and in 1952, *The Sea Around Us* was published and sold one hundred thousand copies by November (Quaratiello 2004, p. 55). In June 1952, she resigned from her job and was able to solely focus on her interests in writing and nature.

Household and family context

Rachel Carson took care for members of her family her whole life. Besides her financial context this factor significantly limited her personal writing time and the time she could spend surrounded by nature, until the 1950s. Her father died in 1935, and Carson took on the responsibility to care for her mother and sisters. After her sister's death in 1937, she took care of her mother and her two nieces. In 1957, one of her nieces died, and Carson adopted her son. Carson's family context constrained her in her action in many ways. However, it empowered her in others. Her close relationship to her mother was most definitely an enabling contextual factor for her work. Her mother supported her interests in nature and writing and she even typed and corrected Carson's manuscript and managed the household while Carson was working. They both lived together until the death of Carson's mother in 1958.

Social network

Carson was herself pleasant company. She had experienced and was not afraid of loneliness (Brooks 1972). Nevertheless, her social network is important to understand the institutional entrepreneurship. Besides her mother, Carson was influenced by another woman: Dorothy Freeman. Carson and Freeman exchanged hundreds of letters throughout the years which were published by a descendant of Freeman (Freeman 1995). With Freeman, Carson could consult about life issues. She was Carson's friend and an intellectual partner. She provided emotional support when Carson started to feel dissatisfaction with her job at the Fish and Wildlife Service (Lear 1997, p. 130), and both shared the passion for nature. The long, written conversations

between both testified for the importance of Freeman in Carson's life, especially as a protection against the dark sides of loneliness in her private life.

In her time at the University and the Fish and Wildlife Service, Carson built an extensive network which she used repeatedly for her personal writings. Especially in the research phase for *Silent Spring*, Carson profited immensely from her network. She hired a research assistant, first Bette Haney and later Jeanne Davis (Quaratiello 2004, p. 87 ff.). Carson consulted many experts and friends who worked as librarians or in the Fish and Wildlife Service to provide her with feedback and information for single chapters of her book (Quaratiello 2004, p. 88).

Political context

Carson's first book, *Under the Sea-Wind* was published in 1941. However, it remained unsuccessful because of the invasion of Pearl Harbor and World War II. The public was simply not interested in a book about the interdependences in the maritime ecosystem at this time (Quaratiello 2004), in a political context dominated by war. Her second book, *The Sea Around Us*, received more recognition. It was published in 1952. Given the experiences from the initial publication of *Under the Sea-Wind*, Carson was skeptical that the public would recognize her second book "amid a tense political atmosphere [...]". To her surprise "[...] Americans began to appreciate the ocean more than ever as neutral territory that isolated their country" (Quaratiello 2004, p. 56). *The Sea Around Us* was an escape from the challenging political atmosphere that dominated the daily life and post-war period. Even Carson herself picked up her own book as a form of escapism from sleepless nights (Quaratiello 2004, p. 57). She noted (Freeman 1995, p. 499):

"Finally I picked up *Under the Sea-Wind*! And somehow it was right. A chapter or two a night relaxed me and let me sleep.... Of course it is the elemental nature of the subject matter, its timelessness, beside which human problems and even human tragedy fall into perspective. But out of this experience I understood for the first time what various people have told me about reading that, or *The Sea*... in time of trouble."

The political context had changed, and Carson's book affected people differently. The dynamics described in the section before start to become visible at this point: Carson's action – her writing – had unintended consequences on her readers. She wrote those books to transfer a fascination for nature through literature. However, people bought the book because it was a form of escapism from the political context as well as a reassurance that there is an ocean isolating them from wars around the world. However, it did not happen by accident. It can be explained by the

political context of this time. The urge to escape the post-war reality and the image of the ocean as a neutral territory that isolates the country, are not intentionally addressed and created by Carson; this part of her reception is an unintended consequence. However, she shaped the contexts, too. She made her readers engage more with environmental topics and this was of special importance for Carson's future work. It paved the way for "stronger medicine" (Zwinger 1989, p. xxv, quoted in Quaratiello 2004, p. 58). This stronger medicine was *Silent Spring*.

The publication of Silent Spring and the environmental movement

From an institutional theory and collective action perspective, it was especially her book *Silent Spring* that contributed to institutional change. However, the three books she published before were milestones that are, even though neither directly triggering collective action, shaped the contexts over the years. Additionally, the context in which *Silent Spring* was published 1962, was fitting for a change in the environmental movement to come about. In 1959 "The Great Cranberry Scandal" shocked the U.S. population around Thanksgiving. The "Food and Drug Administration had banned cranberries sprayed with herbicide aminotriazole before harvesting" (Quaratiello 2004, p. 91). The herbicide caused cancer in rats. This scandal revealed the inadequate consumer protection laws at this time. For the impact of *Silent Spring* the ban came "just at the right moment, all the elements – writer, subject, audience – came together in synergy to produce a masterpiece" (Gartner 1983, p. 86).

If we analyze the collective action which emerged after the publication through a contextual lens, it is not surprising that the environmental movement received propulsion around this time. As Gartner (1983, p. 86) indicates, the masterpiece was a collective achievement. It was made possible through a unique constellation of who, where, and when contexts. *Silent Spring* itself also changed the contexts for other actors. It received wide recognition by the public and the pharma industry tried to undermine Carson's credibility. Therefore, the political context for the President, at this time John F. Kennedy, changed and it became a pressing issue for the Public Health Service to evaluate risks of pesticides. In a press conference, Kennedy himself attributed this change in behavior to Carson's *Silent Spring* (Brooks 1972, p. 305): "[...] particularly, of course, since Miss Carson's book, but they are examining the matter".

Another consequence of *Silent Spring*, that can be considered part of the emerging collective action, was the announcement of Senator Abraham Ribicoff of Connecticut to hold hearings on the problem discussed by Carlson: "If it wasn't for Rachel Carson, I never would have had these hearings. I was not aware of the extent and the importance of the problem she raised" (Quaratiello 2004, p. 113). Additionally, the first *World Earth Day* in 1970, the formation of the

Environmental Protection Agency, and the ban of the pesticide Dichlorodiphenyltrichloroethane (DDT) by the Environmental Protection Agency are institutional changes that have been attributed to Rachel Carson (Quaratiello 2004).

We argue that Carson never could have anticipated all those changes, let alone intended them. Those are unintended consequences of her actions. However, they did not happen by accident. Carson did work, driven by passion, towards the overarching goal of a more environmentally aware world. But if we want to explain why *Silent Spring* – and not another one of her books or articles – had such an impetus on the environmental movement, we cannot refer to her “unique biography”. This does not explain why other actors participated and – unintendedly – became institutional entrepreneurs. We argue that the context in which Carson published *Silent Spring* serves as more persuasive explanation to why institutional entrepreneurship was successful.

3.5 Concluding Remarks

A theory of institutional change needs to be a theory of collective action. We attempt to make a first step in establishing the understanding that institutional entrepreneurship is always collective action of individual actors. Theories of institutional entrepreneurship therefore must answer the question: How do we come from individual to collective action? This article’s contribution is to provide one possible answer to this question.

We developed the idea that contextual factors can explain how collective action emerges from individual action. We argued that individuals are entangled with each other through shared contexts. If we accept that there is a recursive relationship between individuals and their contexts, it follows that actions by one individual can cause unintended changes in the others’ behavior because of a change in contextual factors. This idea is complementary to rational arguments from political economists and psychological arguments from behavioral economists. Further, this idea makes it possible to explain institutional change, which is enabled by collective action, from an evolutionary perspective. We do not rely on personal traits or unique biographies of entrepreneurs to explain institutional entrepreneurship. Therefore, we demystify *the* entrepreneur by developing a contextualized theory that focuses on the interplay of process, context, and outcome to explain institutional change. We place the collective in the focus of agency in institutional entrepreneurship without proposing a collectivistic view.

Or, as Hercule Poirot frames it after outlining his theory about the murderer on the Orient Express being a collective rather than an individual: “And then, Messieurs, I saw light. They were *all* in it” (Christie 2007 [1934], p. 266).

4. Productive lobbying: How spaces of interest representation promote social cohesion

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Abstract

In this article we develop the idea of productive lobbying in the Social Market Economy. Lobbying is always productive when it promotes social cohesion and contributes to the pacification of opposing interests. We argue that this perspective expands the regulatory design of interest representation by including concepts for the institutionalization of interest representation. We develop a set of rules that promotes productive lobbying. In a first step, we discuss the idea of productive lobbying. Second, we derive criteria from our initial considerations as prerequisites which spaces of interest representation must meet to promote productive lobbying. Third, we analyze how these can be met in practice. In this contribution, we oppose the perspective that lobbying is a phenomenon that necessarily threatens democracy; rather, we argue for a more constructive approach aimed at how lobbying should be regulated. This consists not only of avoiding unproductive lobbying, but also of promoting productive lobbying so that it may foster social cohesion.

JEL Codes: D71, D72, O35

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4.1 Introduction

Lobbying has received increasing attention in recent years. This applies both to the regulation of lobbying and to the academic engagement with it. In Germany, the introduction of the lobby register two and a half years ago was an important step towards stricter regulation of lobbying activities. The register is constantly being further developed and was recently extensively amended. The growing interest of academics in the topic is also reflected in the increasing number of relevant publications. In 2000, the Scopus database recorded 387 publications dealing with lobbying in the broadest sense; by 2023, this figure had risen to 756. In German language lobbying research, Polk and Mause (2023) were the first to publish a comprehensive handbook and Spohr (2023) an introductory work on the topic.

The economists analyze lobbying primarily as an exchange of donations or information (Bernheim and Whinston 1986a, b, Austin-Smith and Wright 1992, Lohmann 1993, Grossmann and Helpman 1994, 2001, Polk 2023). In this article, we complement economic research with regulatory economic considerations that understand lobbying as a practice of social policy for the purpose of finding compromises (McCloskey and Klammer 1995). The growing political and scientific interest in lobbying has not yet led to the establishment of rules that go beyond increasing the transparency of lobbying activities or aim to achieve more than limiting or averting the negative effects of lobbying. The research question in this article is: How should a regulatory framework be set up that supports productive lobbying?

What do we mean by ‘productive lobbying’? We analyze lobbying in the context of the Social Market Economy. In this, economic productivity is subordinated to higher goals whose ‘production’ is considered more relevant for the well-being of society. We argue that social cohesion is one of these higher goals. Its facilitation through lobbying primarily determines its productivity. At the same time, lobbying is not a typical economic activity, as e.g. entrepreneurship.

We argue in chapter one that lobbying should be understood as a practice of politics. Productive lobbying is a collaborative practice whose desirability is measured by the (re)production of social cohesion. In the second chapter, we analyze how institutions must be constituted to be able to support productive lobbying. We derive four criteria that arenas of interest representation must fulfill if the lobbying they practice is to have a positive effect on social cohesion. In the concluding third chapter, we show where these criteria are already (partially) fulfilled and how they can be used to develop a regulatory framework that not only prevents destructive lobbying but also promotes productive lobbying.

4.2 Productive lobbying in the Social Market Economy

In economics textbooks, the more productive an activity is, the greater the ratio of output to input is (Streit 2005, p. 5, Mankiw and Taylor 2014, p.12). The most productive economic action leads to the greatest possible satisfaction of needs (output) with the same use of resources (input), or to the same satisfaction of needs with the lowest possible use of resources. An activity is efficient if production is free of waste, i.e. the scarce resources are used to satisfy the infinite needs in the best possible way. At least theoretically, this most productive/efficient state in a market is reached when it is in equilibrium. If we assume a constant input of resources, an increase in productivity is evident through increased output, i.e. an increased gross domestic product.

Actors who initiate a new type of economic activity and thus influence the productivity of a society are entrepreneurs (Schumpeter 1911, Kirzner 1973, Baumol 1990). These effects can be either positive (productive) or negative (unproductive/destructive) (Baumol 1990). Entrepreneurship literature contains countless ‘Varieties of Entrepreneurship’ (Chowdhury et al. 2015). For the analysis of lobbying as entrepreneurship, the following are particularly important. Public entrepreneurs (Ostrom 1990), their subcategories political and policy entrepreneurs (Schumpeter 1942, Wohlgemuth 2000, Schnellenbach 2007), as well as institutional and social entrepreneurs are of interest (Di Maggio 1988, Dees 2001, Boettke and Coyne 2009). Individual aspects of lobbying can be described with these types of entrepreneurship: as public entrepreneurs, lobbyists can promote a reorganization of the water supply, as political entrepreneurs they can create innovations in the struggle for political power positions, as policy entrepreneurs they can bring about the introduction of new rules, as institutional entrepreneurs they can shape formal or informal institutions, or as social entrepreneurs they can use profits generated to strengthen a specific social interest. However, it remains difficult to describe lobbying as productive or unproductive entrepreneurship. After all, is not lobbying the process through which a social interest emerges, on the basis of which we can then divide economic activities into ‘productive’ and ‘unproductive’? Lobbying is therefore more of a social dialog than an economic activity. The classification of lobbying as a form of entrepreneurship reaches its limits here, which primarily due to the underlying understanding of ‘productivity’.

Baumol emphasizes the outstanding importance of the context for the effect of entrepreneurship (Baumol 2002). Whether entrepreneurship is more productive or unproductive in an economy is strongly influenced by institutional incentives (Baumol 1990, 2002). For example, in

societies in which private property is not strongly protected, economically unproductive economic activities such as theft or organized crime are more likely to take place than in societies in which private property is *de jure* and *de facto* protected from arbitrariness. In these societies entrepreneurs tend to concentrate on economically productive activities. The regulatory framework of a society shapes the context and is therefore decisive for the activities of entrepreneurs (Welter 2011, Goldschmidt et al. 2016). The extent to which activities are productive or unproductive depends on the social context. Therefore, we must take a closer look on the relevant context to understand what constitutes productive lobbying.

The German economic system, the Social Market Economy, is characterized by a link between democracy and the market economy (Goldschmidt and Kolev 2023). The goals of economic activities are determined by people and their wishes. The Social Market Economy is to be understood as an economy for the people. Therefore, the purely economic interpretation of the term ‘productive’ introduced above is insufficient to describe productive activities in the Social Market Economy. Economic efficiency gains are not good per se in the Social Market Economy. If economic productivity is not the sole determinant of which activities can be considered meaningful in the Social Market Economy, then the question arises: What are productive activities in the Social Market Economy?

In the history of the development of the Social Market Economy, the idea of ‘social irenics’ can be found in relation to this question (Müller-Armack 1950). This refers to the reconciliation of different goals and interests. However, this should not only refer to the reconciliation of economic efficiency and social goals, but also the reconciliation of different ideas within an order. In the Social Market Economy, this reconciliation is the purpose of the order (Goldschmidt and Kolev 2023, p. 15, Goldschmidt and Simon 2024). As with other pioneers of the Social Market Economy, e.g. Rüstow, reconciliation here means the meeting, coexistence and, at best, convergence of heterogeneous interests – not the standardization or levelling of different ideas (Rüstow 1951, 1963). It is about the peaceful coexistence of opposing positions. This understanding of social irenics is the basis of social cohesion. An activity is therefore also productive in the sense of the Social Market Economy if it promotes social cohesion.

Elsewhere, we argue that social cohesion can be seen as a jointly managed cultural resource (Goldschmidt and Simon 2024). This is not only the goal of the Social Market Economy, but also a key input for successful social interaction. For the (re)production of social cohesion, we identify participation, responsibility, and ownership as the decisive dimensions of the governance of this resource. Productive lobbying – in the sense of promoting social cohesion –

is therefore also dependent of the (political) participation and responsibility of citizens as well as the property relations in a society.

Furthermore, interest representation is not purely an economic activity. It is part of the process of shaping society and forming orders. Lobbying activities never exist only within a social subsystem but take place across systems. In this sense, lobbying carries a society like other authorities of economic policy (Goldschmidt and Störring 2021). The pacification of different interests is – in the sense of social irenics – the measure of the productivity of the social dialog that we call lobbying.

As an interim result of our considerations, we can note two aspects: (i) Lobbying is not a purely economic activity. It is generally related to various types of entrepreneurship and is rather a social practice. (ii) This determines when the representation of interests in the Social Market Economy is productive for the social order. Lobbying is productive when it results in the reconciliation of different interests, i.e. when it promotes social cohesion.

4.3 The authorities of productive lobbying

Instead of a clash between two actors acting in isolation – politicians on the one and lobbyists from private companies and civil society actors on the other side – we view lobbying as a practice that is carried out by economic *and* political actors and not exclusively by political *or* economic actors. This is reasonable because this entanglement (of economic and political activities) exists in every single actor. To assume that politicians pursue exclusively political activities and not economic interests is just wrong. It is far removed from reality to assume that politicians have a ‘protector syndrome’ and only have the welfare of their voters in mind (Buchanan 2003, Wagner 2014, 2015, 2016, 2022). Politics and business are entangled. If these social spheres could be clearly separated from each other, like two sports, then both could take place in different social orders without being influenced by each other. However, both are interdependent and their interplay is too important for the well-being of a society. Therefore, this interdependence cannot be ignored in political-economic analyses. The various types of entrepreneurship (see previous chapter), which unite political and economic goals in individual activities, already indicate this complexity. How can a constructive social dialog that contributes to finding compromises between interest groups emerge from the entanglement on orders?

The political participation of citizens is a basic prerequisite for this (Crouch 2008). Citing Schmitter (2002), Crouch emphasizes two decisive levers that target both property relations and

participation and responsibility, i.e. important dimensions of social cohesion: (i) the financing of parties and interest groups and (ii) the introduction of citizens' assemblies (Frey and Zimmer 2023). We argue in a similar direction but focus on (ii). Productive lobbying requires social places where heterogeneous interests meet and compromises can be worked out. These places are formal institutional arrangements, places where lobbying is practiced. These arenas of interest representation also represent an institutionalization of the interwoven affiliations of individual people to different social orders and therefore their heterogeneous interests. They are arenas in which political and economic interests clash. In these arenas, the 'rule-bound argument' is institutionalized (Frey and Zimmer 2023). These institutional arrangements thus take account of the complexity of our society and are not based on the assumption that social spheres are independent of each other.

The search for an institutional arrangement that enables a balanced representation of interests and thus unleashes the productive forces of lobbying is closely related to the question of representation.¹ Biome and Hartlapp (2023) investigate the role of 'forums', such as citizens' councils in Germany and France, and analyze their impact on representation in political arenas. They emphasize that the forums should be interwoven with other political actors so that they can ask questions and monitor the political work. It is therefore not just a question of incorporating citizens' assemblies into decision-making processes as an advisory body, but of integrating the various interests into the decision-making processes. Our line of argument is similar to that of Crouch and Biome and Hartlapp, but we do not limit ourselves to citizens' assemblies or councils. We speak of arenas of interest representation, which can consist of both citizens and interest groups. In the following, we argue what criteria these arenas must fulfill in order to promote productive lobbying.

Lobbyists find themselves in a similar situation to entrepreneurs. Both strive for as much (market) power as possible and control over market entries and exits. However, they develop their most socially productive forces when they operate in arenas that are as power-free as possible and when individual actors cannot exercise any significant control over other participants (Congleton 2011). It can therefore make sense to regulate lobbying by similar means as companies if their market power is to be restricted, except that lobbying is primarily about political influence. It is therefore important that individual interest groups (i) do not achieve a monopoly-like influence on political decisions and (ii) cannot prevent other interest

¹ In recent political science studies on the topic of representation, the (lack of) representation of women, ethnic minorities and young people in particular are discussed (Blomeraad 2013, Murray 2016, Elsässer and Schäfer 2018, Stockemer and Sundström 2018, Freire et al. 2022, Geese 2022,).

groups from participating in the political arena. Both apply to traditional lobbyists, such as business representatives, as well as to politicians. We derived these two criteria from competition policy. They are basic conditions for power-free, contestable and therefore productive lobbying.

Lobbying can either target individual politicians and the purpose of influencing singular policies, or it can result in the fundamental change of rules and orders by going through the institutions. The former type of lobbying could be described as ‘backroom’ lobbying and the latter as ‘parliamentary’ lobbying. The distinction between inside and outside lobbying strategies is comparable to this classification (Spohr 2023). This distinction is important for our purposes, as it refers to the different degrees of publicity associated with different types of lobbying. However, our distinction emphasizes the institutional aspect over the visibility of the lobbying. With reference to our argument in chapter one, we note that lobbying in more private arenas tends to be more problematic than lobbying in public arenas. This is also related to criteria (i) and (ii), private arenas tend not to be contestable because they are not subject to public scrutiny. Therefore, the promotion of measures to increase the transparency of lobbying efforts is to be welcomed and promotes productive lobbying in the sense discussed here. Measures such as the Lobby Register Act (Lobbyregistergesetz) raise the degree of publicity for lobbyist activities (iii) and thus enable democratic control.

Biome and Hartlapp (2023) emphasize the importance of a political mandate for citizen-councils (iv), so that their negotiations are not irrelevant for actual political decisions. This aspect is also paramount for our idea of arenas of productive lobbying. The Concerted Action (Konzertierte Aktion) is an example of a compromise promoting a more or less public arena in the history of the Social Market Economy that largely fulfills the basic conditions (i–iii) of productive lobbying identified above (Schubert and Klein 2020). However, Concerted Action had no decision-making authority. It is therefore important – above and beyond the basic conditions – that lobbying can actually influence decisions and that arenas of compromise are not merely a reflection of different interest groups for decision-making support by a further authority, but that these are actual decision-makers. In this way, arenas of interest representation are not only involved in the decision-making process, but ideally also experience legitimacy on the basis of decision-making powers.

The more decentralized and power-free decisions can be made, the higher the decision-making costs (Buchanan and Tullock 1962). The decision-making costs are highest when all members of the collective have to agree to a collective decision (grassroots democracy with veto rights

for every citizen). However, these costs can also be observed in parliamentary democracies. German politics often seem to be too slow and ponderous and some groups of voters would like to see greater power/centralization of the political process in order to increase the ability of individual actors to act.

In our view, slower decision-making processes are fundamentally a sign of a culture of compromise (Goldschmidt and Wolf 2021). As convincing as the comparison of external costs and decision-making costs is, this calculation is questionable if we are no longer talking about consensus but about compromise. Democracy is more than just calculating a consensus while taking into account the associated costs and minimizing them. Especially if decisions are to contribute to social cohesion and the pacification of interests in the long term, compromise must play a key role. Accordingly, decision-making costs are not just an annoying evil of a democracy, but investments in future decision-making processes. At the moment of decision, there may be cheaper ways – in terms of decision-making costs – than the sometimes cumbersome path of compromise, but it can be worthwhile for the sustainability of decisions and future decisions to establish a culture of compromise in the arenas of interest representation. This strengthens social cohesion.

The following points summarize our considerations in this chapter but also serve as initial ideas for the design of a regulatory framework to promote productive lobbying. Lobbying must take place in arenas that (i) promote power-free negotiation between different interests (e.g. through equal representation), (ii) are contestable, i.e. certain interest-groups must not be prevented from participating (this can be ensured by the random composition of these bodies) and (iii) are subject to public scrutiny in order to prevent ‘backroom’ lobbying and thus protect decision-making processes from the arbitrariness of individuals. (iv) In order for these arenas to have a formative influence on society, it is reasonable to make them (partial) decision-makers. Otherwise, there is a risk that the compromise-finding will become irrelevant to the decision.

4.4 Productive lobbying in implementation

In the following, we will use the developed criteria (i)–(iv) to show where there are already arenas of productive lobbying and how these can be developed further.

Competitive arenas of interest representation

As argued in chapter two, the funding and representation of interest groups are relevant determinants of distributing power in a democracy. Both economic and political power can hinder the productive forces of lobbying, but it is not possible to set them off against each other: How much more political power should financially weak interests receive? Financially strong interests are also legitimate interests and must be heard in the political debate. Of course, the representatives of financially strong interests have other ways of making themselves heard, but this also applies to politically powerful interests. For example, business associations can use their financial resources and contacts to engage in ‘backroom’ lobbying, but not nearly as many people can be mobilized for a demonstration for the interests of the Federation of German Industries (Bundesverband der Deutschen Industrie e.V.) as for the interests of the climate-movement. A comparison of these interests and therefore measuring the respective economic or political power does not seem very promising. It is therefore more important to design the composition of interest representation arenas in such a way that as many interests as possible are represented. A certain sociographic representation between genders and ages as well as education and income classes is crucial to protect interest representation from the overpowering of one interest-group.

The ideal of a representative body with ‘correctly’ weighted participants, according to the interests concerned, is not expedient. It suggests that there is the possibility of one right solution. If that were the case, then lobbying would be a question of reaching a consensus as efficiently as possible. However, this sole right solution does not exist. Lobbying is, as already discussed, the social path to compromise. It is also presumptuous to believe that equal representation would automatically lead to a power-free arena of interest-representation. All human relationships, including those in the arenas we have described, are characterized by power. In this context, freedom from power therefore means above all recognizing the power relations in individual contexts and nevertheless arguing in a regulated manner (Frey and Zimmer 2023).

It is also crucial to not only consider the power relations within an arena of interest representation, but also the power relations of the participants towards the outside, i.e. towards groups that do not (or cannot) participate in the lobbying process (see also criterion ii). For

example, only certain interests of workers are represented by trade unions. The interests of the unemployed are not taken into account by trade unions, and it can also happen that action is taken against them when the interests of workers are represented. The interests of non-involved groups are then not represented in the power-free arenas of interest representation. Arenas of interest representation must therefore also have an enabling effect in order to adequately meet the criterion of freedom from power. The representation of different relevant interests, i.e. the heterogeneity of the participants, is crucial. In view of the challenges posed by climate change, it became clear that the interests of future generations must be taken into account in decision-making processes in the present. It remains to be clarified what this means for the composition of arenas of interest representation and how sufficient representation of different interests can be achieved.

Contested arenas of interest representation

The possibility to access the arenas of interest representation determines their contestability. Therefore, a regulatory framework that promotes productive lobbying must ensure that participating in political decisions is not only possible for privileged groups. As Collin Crouch emphasizes, participation in a democracy must be promoted beyond participation in elections (Crouch 2008). The composition of citizen-assemblies, which are one of these opportunities for political participation that goes beyond going to the ballot box, is often determined based on a random mechanism (Frey and Zimmer 2023). This can – in the sense of representation – of course be expanded to include sociographic criteria to ensure a minimum level of representation of society. For the contestability of arenas of interest representation, however, the lot as a selection mechanism is decisively important.

In the USA, for example, the composition of juries in court proceedings is partly decided by drawing lots. Citizens are thus obliged to participate in political and legal decisions. Such a selection mechanism therefore not only increases political participation, but also the political responsibility of citizens and is therefore productive in terms of social innovation. It also calls for participation in the community that goes beyond participation in elections. For the arenas of interest representation, the lottery procedure means an increased degree of contestability, as the same transaction costs apply for all citizens to participate in the negotiations in these arenas. These equally high entry barriers for all protect the arenas of interest representation from being dominated by single interest groups.

Public arenas of interest representation

Representation of interests must be verifiable. This is where regulation has made the greatest progress in recent years. The introduction of the Lobby Register Act and its current amendment² has decisively strengthened the transparency of lobbying in Germany. It is now possible to access the financial expenditures, the areas of interest, the proposed legislation to be influenced and other characteristics of the lobbyists. This has made it much easier for journalists and NGOs to check for power asymmetries and privileged access due to financial resources. The lobby register also enables a better understanding of networks. The transparency created by the lobby register shows primarily the characteristics of the lobby actors and is less about the actual representation of interests that take place. In particular, the view into the ‘back room’ of politics therefore remains closed.

Courts can also contribute to publicizing the arenas of interest representation. One example from the recent past is the action brought by climate protection advocates before the Federal Constitutional Court, which obliged the German government to comply with the Paris climate targets (irrespective of the legal and political assessment of the ruling). These processes of interest representation take place in public, enable dissent and discussion and thus promote compromise. They are therefore also outside strategies that we tend to regard as more productive than inside strategies of interest representation.

Decision-making arenas for the representation of interests

The example of the Concerted Action shows both the strength of arenas of interest representation, that their composition is balanced and they are exposed to a certain degree of publicity, as well as the weakness of such arenas if they are not granted decision-making powers. In principle, they are able to reach compromises and solutions that enrich the decision-making basis for politicians. However, a look at the Concerted Action also shows that these bodies face legitimacy problems in the long term if they only have an advisory influence on the decision (Külp et al. 1984). Transferring all political decisions to lobbyist bodies is not the core of our argument. We are concerned with the decentralization of political decisions. The transfer of (partial) decision-making authority to arenas of interest representation follows a qualified principle of subsidiarity to a certain level. It relates less to the geographical extent than to the substantive extent of a decision. Those who are affected by the content of a decision should also have (partial) decision-making power. This basic idea is also pursued, for example, in the

² See the article by Mause and Polk (2024).

Minimum Wage Commission (Mindestlohnkommission), which is made up of equal numbers of employer and employee representatives. Here, one body has the (partial) power to decide on the level of the minimum wage. This (partial) decision-making power is an essential component of this body and must not be undermined by the Bundestag if the body is to continue to develop its productive powers as an arena for the representation of interests.

Economic policy is influenced in the arenas of interest representation. As such, these places are also authorities of economic policy. To enable them to engage in productive lobbying, we have discussed four criteria in more detail and illustrated them with examples in order to develop an idea for a regulatory framework for lobbying that goes beyond the promotion of transparency. It is possible that the partial introduction of the arenas outlined here would cause higher decision-making costs than a local, state and federal parliament, which decide more or less centrally for their respective areas of competence across content boundaries. However, this must be countered by the fact that the idea of productive lobbying means first and foremost strengthening the ability to compromise in societies. In this way, participation and responsibility can be strengthened independently of ownership structures, thereby (re)producing social cohesion in the Social Market Economy. Decision-making costs should then be viewed more as investments in resilient and sustainable decisions, i.e. social cohesion.

4.5 Concluding Remarks

Lobbying regulations that only aim to limit negative effects are incomplete. In this article, we have outlined some initial thoughts on how a regulatory framework can be designed that promotes the productive effects of lobbying. The ideas developed here do not oppose the regulation of the negative effects of lobbying but are intended to complement them to embed lobbying more comprehensively in society. As we argued in chapter two, lobbying is a practice of economic policy that can be practiced by all of us. Its goal is not solely and primarily to increase the gross-domestic product, but to increase social cohesion. Lobbying is therefore an opportunity for political participation that goes beyond elections. To ensure that this takes place within regulated channels and that certain interest groups cannot abuse this path of political participation for their own purposes, there is a need for arenas of interest representation that (i) enable power-free representation of interests, (ii) are contestable in their composition, (iii) are subject to public scrutiny and (iv) grant (partial) decision-making powers. Such arenas require the participation and responsibility of citizens relatively independently of social positions, promote social cohesion and enable productive lobbying.

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