Explaining participation bias in the European Commission's online consultations: The struggle for policy gain without too much pain

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Abstract

This paper investigates participation bias in the European Commission's online consultations by focusing on issue characteristics and using a cost-benefit framework. The main assumption is that a group will choose not to participate when their participation costs exceed the expected benefits. This leads to a more biased participation pattern. We expect this to hold when the proposal discussed in a consultation is more complex, whereas the opposite is the case if the proposal is more salient (important). Furthermore, we expect there to be an interaction effect between complexity and salience. We test, and find support for, these expectations on more than 350 consultations held between 2001 and 2012.

Keywords: Commission, Complexity, Consultations, EU, Lobbying, Media attention, Participation bias, Salience

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Political participation is crucial for democratic decision making. The participation of interest groups in decision-making activities connects a variety of people to decision-making processes (Baumgartner and Leech, 1998; Schlozman, Verba and Brady, 2012). Some interest groups might, however, participate more in these processes than others, leading to a biased representation of interests when compared to the population. The study of bias in the representation of interests in politics constitutes a long-standing field of research in the interest group literature (Truman, 1951; Schattschneider, 1960; Olson, 1971; Lowery and Gray, 2004; Lowery, 2007).

Distinguishing between two stages of mobilization (Rasmussen, Carroll and Lowery, 2014, p. 252), the main focus has thus far been on the first stage: the formation of interest groups and bias in the ensuing interest group population. A bias towards business interests has been the overall refrain, both in the United States (US) and in the European Union (EU) (Coen, 2007; Baumgartner, Berry, Hojnacki, Kimball and Leech, 2009; Wonka, Baumgartner, Mahoney and Berkhout, 2010; Schlozman et al., 2012). Less attention has been paid to the second stage of mobilization which concerns political participation. As with bias in interest group populations, one set of explanatory factors relates to interest group characteristics, such as resources (Rasmussen et al., 2014). Another set, which is more exclusively related to participation alone, concerns the policy issue characteristics that give interest groups incentives to participate (Rasmussen and Carroll, 2014). This is an underexplored area.

To examine bias in political participation, the European Commission’s online consultations make for an interesting case. Compared to the Commission’s other consultation activities, such as expert groups, forums and conferences, there are few hurdles to overcome for interest groups that want to participate. No invitation is needed and participating does not depend on geographical location (Greenwood, 2011; Quittkat and Kotzian, 2011; Rasmussen and Carroll, 2014). This leaves the decision of whether to contribute or not entirely in the hands of each interest group. Furthermore, since their physical presence in Brussels is unnecessary, interest groups with fewer resources are also more likely to be able to participate. Online consultations therefore constitute a “most likely

case” for pluralistic participation patterns, where all affected interest groups contribute. Hence, studying these particular consultations can yield valuable knowledge about political participation, given that access is not only granted to selected interests. It should be possible for both policy insiders and policy outsiders to participate.

The openness could mean that online consultations are less attractive lobbying tools. However, the consultations usually concern the Commission’s policy proposals. Lobbying at this early stage is important since it provides an opportunity to shape the proposal before it is debated by the Council and the European Parliament (EP) (Klüver, 2011; Quittkat and Kotzian, 2011; Bunea, 2013; Chalmers, 2013). Interest groups in general are therefore assumed to be interested in participating in online consultations. This notion is also supported by the fact that the distribution of interests in the online consultations mirrors that of the EU’s Transparency Register, with regard to both business and non-business interests (Rasmussen and Carroll, 2014; Dür, Bernhagen and Marshall, 2015).

To explain the degree of bias in online consultations, we focus on characteristics of the issue that the consultation concerns. We look at two aspects, salience (as measured by the degree of media attention) and technical complexity, which we argue are important when groups consider the costs and benefits of participating and that are thus likely to affect the distribution of interests represented in a consultation. We build on Rasmussen and Carroll (2014) who mainly focus on the conflict that different policies generate based on who pays for them. One contribution of this paper is to shift the attention to how groups weigh the costs and benefits of contributing to online consultations. Previous research has pointed to salience and technical complexity as potentially important for group participation, but more explicit theory on why this is the case is lacking. Furthermore, the effects have not been considered in large-N studies. This paper aims to rectify this.

Salient issues affect the interests of a larger part of the public and are also more prominent in the policy agenda (Gormley, 1986; Lowry and Joslyn, 2014; Rasmussen et al., 2014). They are therefore likely to be relevant to the constituencies of a wider range of interest groups, which increases the potential benefits of participating. For more complex issues, on the other hand, participation can be costly if the actors do not already

have the tools necessary to contribute, i.e., if they are not already experts in the specific field. Hence, to simplify, salience is first and foremost assumed to be associated with the potential benefits of participation and technical complexity the costs. Participation bias is therefore expected to be smaller for more salient issues and larger for more complex issues. We also expect there to be an interaction effect between complexity and salience. When the costs are assumed to exceed the benefits – for less salient and more complex issues – we expect more biased participation than when the benefits exceed the costs – for more salient and less complex issues.

The analysis supports our theoretical expectations. Thus, the good news is that more salient Commission proposals (post-consultation) are more likely to be representative than less salient ones. At the same time, most proposals do not attract much attention (Bruycker and Beyers, 2015). The main bulk of proposals therefore generally do not incite a broad mobilization of interests.

Previous research

The primary focus in the study of bias has been on the first stage of mobilization: the formation of interest groups. The focus here is instead on the second stage: political participation. Previous studies have looked at this type of bias in other contexts, such as in the Commission’s advisory committees, as well as in expert groups. The main explanatory factors in these studies are interest group characteristics (e.g., resources) (Mahoney, 2004; Chalmers, 2014; Rasmussen et al., 2014).

Unlike committees and expert groups, participating in online consultations does not require an invitation. The Commission is therefore not the architect behind any potential biases, which is underscored by Bunea’s (2017) finding that the consultation regime does not seem to favour policy insiders but instead alleviates the distinction between insiders and outsiders. This makes it possible to examine whether characteristics pertaining to the policies that the consultations concern affect the degree of bias. Some characteristics are more likely to give a broader range of interest groups incentives to participate than others.

The effects of issue characteristics, including technical complexity and salience, have been examined in relation to lobbying behaviour and lobbying success (e.g., Mahoney, 2007; Klüver, 2011; Bunea, 2013; Rasmussen et al., 2014; Junk, 2016). With the exception of Rasmussen and Carroll (2014), however, few studies have examined the effect of issue characteristics on participation bias. When studying the Commission’s online consultations, Rasmussen and Carroll (2014) theorize that the conflict different policies generate affects bias. The general assumption is that when a broader range of interests are affected, participation bias is smaller. Based on this, they expect and find that the policy type (distributive or regulatory proposals) and cost structure (diffuse or concentrated costs) affect participation bias.

Although few existing studies explicitly theorize about the effects of technical complexity and salience on bias, some have implicitly studied complex and/or salient issues which might shed some light on their potential impact. Quittkat (2011) finds that companies and business associations participate more than other actors in online consultations organized by two Directorates-General (DGs). The cursory explanation offered for this is that participation consumes resources, which we argue is likely to be the case when issues are technically complex. In these cases, participants need specialized knowledge to be able to participate in a meaningful way (Gormley, 1986; Ringquist, Worsham and Eisner, 2003). Two case studies of consultations concerning the authorization of new GMO products – arguably a technically complex issue – have furthermore shown that, over time, citizen participation has declined and experts are left as the main contributors (Ferretti and Lener, 2008; Steffek and Ferretti, 2009). This could indicate that a less diverse set of interests are represented as well (Rasmussen and Carroll, 2014). As for salience, one study has shown that salient issues generally attract a higher number of interest group participants (Rasmussen et al., 2014). Whether salience also affects diversity (bias), as opposed to only interest group density, remains unexplored.

Finally, a case study by Persson (2007) provides some insight into the potential interaction effect between technical complexity and salience. Persson examines an online consultation concerning the REACH system, i.e., technically complex chemicals legis-

lation. The consultation attracted an unusually high number of contributions and the proposal elicited ‘European-wide campaigns with thousands of participants representing the interests of the environment, workers, consumers and animals’ (Persson, 2007, p. 236). Therefore, this consultation arguably constitutes a case that is both complex and salient. Participation in the consultation is found to be biased towards industry interests. Whether this holds true more generally cannot be derived from this study, however. It is similarly not possible to determine the degree to which the effect of salience on bias depends on technical complexity. The analysis in this paper seeks to explore this interaction effect systematically in a large-N study covering the time period between 2001 and 2012.

Theoretical framework

We employ a cost-benefit approach to explain why interest groups participate in the Commission’s consultations and how this affects bias. While a similar logic also underlies the theoretical reasoning of Rasmussen and Carroll (2014), we shift the focus more explicitly to consider how groups weigh the costs and benefits of contributing.

Each interest group is assumed to be rational and utility-maximizing (Riker and Ordeshook, 1968; Shepsle, 1997). Groups are assumed to be more (less) likely to participate the higher the benefits (costs) of participating. Hence, the higher the benefits and lower the costs, the more participation. While cost-benefit analysis forms the basis of our theoretical expectations, our aim is not to explain the sum of all cost-benefit evaluations that each group makes when deciding whether to participate. Instead, we assume that costs and benefits affect the incentives that motivate groups to participate in online consultations. While the decision to participate is found at the group level, technical complexity and salience are at the proposal level. Our assumption is thus that particular characteristics of a proposal guide each group’s decision on whether to participate, and that this affects the degree of bias across groups. To simplify, salience is assumed to be mainly associated with the potential benefits of participation and technical complexity the costs.

Our reasoning is in line with Gormley (1986) who hypothesizes that different actors’

participation in regulatory politics across policy areas is conditional on the areas' levels of public salience and technical complexity. In other words, different combinations of salience and complexity will lead to different participation patterns (Neshkova, 2014). Similarly, we expect that different combinations of salience and complexity lead to different levels of participation bias. Interest groups will be incentivized if they foresee potential benefits and repelled if participation imposes costs on them.

We first of all expect that the salience of the issue discussed will affect bias. Salient issues, which the public cares about and that are high in the policy agenda, are assumed to give interest groups incentives to mobilize. In line with Bunea (2014), we presume that interest groups have two main goals when they participate in consultations: to represent the interests of their constituency and influence policy outcomes. Although influencing outcomes is generally more difficult for salient issues (Mahoney, 2007; Klüver, 2011; Dür et al., 2015; Rasmussen, 2015), participating nevertheless fulfils the goal of assuring interest representation and is a relatively low-cost way of signalling to their constituency that they are able to function as its EU representative. It is also a way to signal to political decision makers that they take an interest in the issue from an early stage of the policy process (Bunea, 2014).

Failing to mobilize on salient issues that are more likely to catch the attention of and be important to a group's constituency, means that it increases its risk of losing support, which could affect its chances of organizational survival (Lowery, 2007; Rasmussen et al., 2014). Groups that mobilize, by contrast, and represent their constituency's interests could increase their chances of maintaining and attracting members or financial support. The costs of not participating are therefore assumed to be higher if an issue is salient, and we expect less biased participation when the policy proposal discussed is more salient:

H_1 Participation bias in the European Commission's online consultations is lesser the greater the salience of the consultation.

Second, we expect that the complexity of the issue will affect bias. Participating in consultations on complex issues is assumed to be more costly in terms of time and other resources. To understand the content of a technically complex consultation and

be able to provide relevant feedback, interest groups with expertise in the given field have an advantage. They are likely to already possess the relevant information needed to participate. Without this, resources like money or staff may be needed to be able to participate, thereby making it more costly to contribute. Less affected groups may in such cases find that the costs exceed the potential benefits of contributing. This makes the representation of wide-ranging interests in technically complex consultations less likely:

H₂ Participation bias in the European Commission’s online consultations is greater the greater the complexity of the consultation.

We also expect that there is an interaction effect between complexity and salience. For consultations concerning policies that are less salient and complex, only groups that are especially affected and already have the necessary expertise are assumed to participate. For less affected groups, taking the effort to employ additional resources to contribute is assumed to not be worth the hassle. For more salient and less complex consultations, on the other hand, the benefits are assumed to exceed the costs. Put together, this means that:

H₃ Participation bias in the European Commission’s online consultations is greater for less salient and more complex issues, and lesser for more salient and less complex issues.

For consultations concerning issues that are more salient and complex, however, we do not have a definite expectation. On the one hand, the increase in potential benefits assumed to be associated with more salient consultations could mean that groups are willing to accept the larger costs associated with complex issues. If so, the outcome would be less biased participation for more salient and complex consultations. On the other hand, the costs of complexity might outweigh the benefits of salience, and the outcome might therefore be more biased participation. The same (in reverse) applies to less salient and less complex consultations. Figure 1 illustrates our expectations of a possible interaction effect between complexity and salience on participation bias in the European Commission’s online consultations.

[Figure 1 about here.]

Data and methodology

To test the hypothesized relationships between salience, technical complexity and participation bias, we use Rasmussen and Carroll’s (2014) dataset consisting of 210 consultations organized between 2001 and 2010. We have additionally coded consultations organized in 2011 and 2012, resulting in a total of 378 observations.

Data on the consultations are made available through the Commission’s “Your Voice in Europe” website and each DG’s designated consultation site. Of these, all the consultations for which the names of the participants were available at the time of coding were included. Consultations using standardized questionnaires – where participants are typically anonymous – are therefore underrepresented in the sample. A wider range of actors has been found to participate in standardized consultations, which is associated with less biased interest representation (Quittkat, 2011; Rasmussen and Carroll, 2014). Because standardized consultations are underrepresented, the range of both actors and interests represented might therefore be broader in the population of consultations when compared to our sample. Nevertheless, the distribution of interest groups that participate in the consultations in our sample mirrors that of the EU’s Transparency Register (Dür et al., 2015; Rasmussen and Carroll, 2014). Altogether, this lends support to the notion that the sample mirrors the distribution of interest groups involved in lobbying at the EU level.

The descriptive statistics of the dataset can be seen in Table 1. Rasmussen and Carroll (2014) use a dependent variable that separates between groups representing (1) trade and other business, (2) occupational interests, (3) labour (trade unions), (4) public interests, (5) identity interests, (6) public authorities, and (7) other interests.¹ A less biased consultation is one in which these seven types of interests are represented fairly equally. However, since the majority of EU decision making concerns economic issues, participation is more relevant for business groups (Broscheid and Coen, 2003; Bouwen, 2004; Eising, 2007*a*; Coen, 2007). This is also evident in the population of EU interest

groups, even though the share of non-business interests has increased as the EU’s competencies have expanded (Beyers, Eising and Maloney, 2008). We therefore use a measure that takes the distribution of interests in the population into account. We compare the distribution of interests among those that have mobilized at the EU level (“step one”) – the population – and thus have a certain probability of actually participating, to the distribution of interests among those that participated in a consultation (“step two”).

[Table 1 about here.]

To do this, we use Rasmussen and Carroll’s (2014) population dataset which is based on the EU’s Transparency Register. Previous studies have used population datasets as a baseline to determine the extent to which specific interest distributions are biased. Rasmussen and Carroll (2014) compare the distribution of interests in their population dataset to the aggregated distribution of interests across all consultations in their sample. Similarly, Bruycker and Beyers (2015) compare the distribution of interests that attracts media attention to the distribution in Wonka et al.’s (2010) population dataset. We incorporate this logic into our dependent variable. Although registration in the EU’s Transparency Register is voluntary, we argue that the benefits associated with doing so (e.g., EP accreditation) imply that it encompasses a set of actors that are more likely to participate in online consultations.

To calculate the dependent variable, we first divide the percentage of each interest group category that participated in a consultation by the category’s population percentage. Groups representing interests that are overrepresented when compared to the population receive a value greater than 1, and the underrepresented receive a value less than 1. For example, if trade/business groups make up 73 per cent of the participants in a consultation and 52 per cent of the population, their “weight” is 1.4, and such a weight is calculated for each of the seven interest group categories in each consultation. Then, for each interest group category, the weight values are standardized to range between 0 and 100. Finally, for each consultation, the weight of each interest group category is added together. The variable is reversed so that higher values signal more biased outcomes. With

this dependent variable, a consultation is thus defined as more biased if the distribution of interests in the consultation diverges more from the distribution in the population.

We run an ordinary least squares (OLS) regression with DG and year fixed effects.² We include DG fixed effects because previous studies have found that there are differences in interest distributions across policy areas (Coen and Katsaitis, 2013; Berkhout, Hanegraaff and Braun, 2017). Following Rasmussen and Carroll (2014), we also include year fixed effects in order to account for possible learning effects over time (i.e., that more actors become aware of the existence of consultations). Results also hold in a multilevel analysis (see appendix).

Turning to the operationalization of the independent variables, there are several ways to measure *Salience*. One possibility is using survey questions, where respondents are asked to choose what they consider to be the most important issue from a set list (Rasmussen et al., 2014). Using this approach is not ideal here, however, since some of the consultations barely overlap with these issues. Another alternative is to measure salience as the total number of consultation contributions (Klüver, 2011; Bunea, 2013), but this can be argued to be too closely related to our dependent variable. A third option is to use the number of recitals in the final Commission proposal (Wøien Hansen, 2014). However, it is difficult to match consultations to the Commission’s final policy proposals in practice because the proposals may be substantially altered when they reach the decision-making stage of the legislative process.

Instead, we use media attention to measure salience. Following the typology developed by Gormley (1986), the media should be driven by salient policies. A measurable level of the salience of a particular policy issue at any given time can be provided by the amount of media attention (Eshbaugh-Soha, 2006). Salience measured as media attention is thus applied in a variety of previous studies (e.g., Eshbaugh-Soha, 2006; Junk, 2016; Mahoney, 2007; Neshkova, 2014). We measure salience as the number of media hits found in the Factiva database concerning the policy issue addressed in a particular consultation. We use two EU-level newspapers, *Agence Europe* and *Europolitics*, and one national-level paper, *Financial Times* (which also reports on EU issues). The search is narrowed down

to the year in which the consultation was held and, similar to Beyers, Dür, Marshall and Wonka (2014), we use a list of consultation-specific key-words (in English). The key-word search is similar to the work done by the INTEREURO project (Beyers et al., 2014). We argue that this measure captures the prominence of each online consultation on the agenda.

For robustness purposes, we also use an alternative operationalization with the same key-words, but instead of narrowing down the search to specific journals we specify the subject “European Union” instead. This operationalization of media hits thus includes a wider range of publications and should be less prone to any type of bias resulting from our selection of publications for our main salience measure.³ Both salience measures yield similar results (see appendix for results with the alternative operationalization). However, by not specifying a subject and instead selecting a number of EU-relevant publications, the salience measure is more tangible and easier to replicate across databases.

Previous studies have measured *Technical complexity* based on the word, recital, and article counts in policy proposals (Klüver, 2011), as well as just the word count of the document issued by the Commission that accompanies each consultation (Junk, 2016). We also use the Commission’s consultation documents for our complexity measure as they contain information about the proposal in question and usually a number of questions to be answered. It is thus necessary for participants to read this document if they wish to provide informed answers. Instead of counts, however, we measure technical complexity using the Flesch reading ease (FRE) level of the consultation document (which are all written in English). The FRE level measures how difficult it is to read a given document based on average sentence length (in words) and average word length (in syllables) (Flesch, 1948). This arguably takes the complexity of the text into greater account. Assuming that more complex language is used when a policy proposal is technically complex, this measure likely gauges the complexity of the proposal and has the added benefit that it is based on something that would-be participants read in order to become informed. In line with Gormley (1986), we assume that there will be a greater demand for expertise when issues are more complex. Such a demand is likely to be reflected in the Commission’s document

describing the issue of the consultation. We therefore assume that more complex language is used when a policy proposal is technically complex. Furthermore, the FRE measure is widely used as a measure of text complexity across disciplines (cf., Cann, Goelzhauser and Johnson, 2014; Coleman and Phung, 2010). The measure ranges from 0 (easy) to 100 (difficult). Examples of the types of consultation documents that are classified as least and most complex can be found in the appendix.

Rasmussen and Carroll’s (2014) independent variables are included as controls. These are bias in the types of actors that participate (*Actor bias*), the number of interest group participants (*Interest group density*), the type of policy a consultation concerns (*Policy type*), as well as its *Cost structure*. We furthermore control for the length of the consultation period (*Duration*), measured as the number of weeks during which it is possible to participate (log transformed). Shorter consultation periods might be challenging for groups that need to co-ordinate among their members in order to respond, which could lead to more biased participation patterns (Rasmussen and Carroll, 2014). Lastly, we control for degree of *Openness*, i.e., whether the consultation is open to everyone, has a specific target group, or is closed to all but selected interests or actors (Quittkat, 2011). Naming target groups might dissuade non-targeted actors from participating, and in the case of closed consultations, the Commission might organize bias depending on how broad their specification is.⁴

Results

The results are shown in Table 2. In general, all three hypotheses are supported by the statistical analysis: (1) there is less participation bias when consultations are more salient, (2) there is more participation bias when consultations are more complex, and (3) participation bias is greater for less salient and more complex issues, and lesser for more salient and less complex ones. We also find that for more salient consultations, participation bias increases with the degree of complexity.

[Table 2 about here.]

The first hypothesis is supported by the significant effect of salience in models 1 and 2, where the interaction term is excluded. In both models, a one unit increase in salience decreases the chances of a more biased consultation by 0.03. This finding relates well to Rasmussen et al. (2014) who find that salient issues are associated with a higher number of interest group participants, as well as Gormley (1986) who argues that salient issues increase the political involvement in decision making, i.e., incentivizes participation. Our analysis adds further nuance to this notion by showing that salience is also associated with less participation bias. In general, it seems that salience incentivizes all types of groups to participate.

We also find support for the second hypothesis concerning the effect of complexity, where a one unit increase increases the chances of a more biased consultation by around 0.18. Hence, as shown in other studies (e.g., Ferretti and Lener, 2008; Steffek and Ferretti, 2009; Quittkat, 2011) more complex issues are associated with more biased participation patterns. We confirm that this finding also holds in a large-N analysis across policy areas.

As for the previously unexplored interaction effect between complexity and salience on participation bias, our third hypothesis is also supported. This is shown by the positive effect of the interaction term on participation bias in model 3. Figure 2 shows the expected values with 95 per cent confidence intervals. Salience is held constant in each figure, whereas complexity varies between 40 and 100. Figures 2a and 2b show the expected values when salience is lower, i.e., when there are 0 and 15 hits in *Agence Europe*, *Europolitics* and *Financial Times* combined. With 0 media hits, more complexity is associated with a slight increase in bias. With 15 media hits, less complex consultations are more distinctly associated with less biased outcomes than more complex consultations.

Figures 2c and 2d show expected values when consultations are more salient, i.e., when there are approximately 30 and 60 media hits, respectively. As can be seen, more salient and less complex consultations are found to be associated with less bias, as expected. In sum, this lends support to our third hypothesis. Participation bias in the European Commission’s online consultations is greater for less salient and more complex issues, and lesser for more salient and less complex issues.

We did not have a clear expectation regarding consultations concerning both more (less) salient and complex issues. As can be seen, we find that more (less) salient and more (less) complex consultations are associated with more (less) bias. This echoes Persson (2007) who found that industry interests submitted more responses to a complex and salient consultation.

[Figure 2 about here.]

The effects of the other variables are generally in line with previous findings and expectations. Most of Rasmussen and Carroll’s (2014, pp. 447-448) hypotheses are supported, with the exception of cost structure, which is not found to significantly affect bias. First, when a less diverse set of actors – individuals, companies and so on – participate (*Actor bias*), consultations are generally more biased. Second, more interest group participants (*Interest group density*) are associated with less bias. Third, consultations concerning expenditure proposals are less likely to be biased than regulatory proposals. As for the control variables, neither are found to have a significant effect.

Conclusion

In this paper, we sought to contribute to the literature on political participation by examining bias in the European Commission’s online consultations. We have shown that interest groups seem to be guided by a cost-benefit logic when participating in these consultations. If clear benefits to participating are likely, i.e., the matter in question is highly salient, participation bias is more likely to be lower. By contrast, when the costs of participating are likely to be higher, in the form of more complex consultations, more biased participation patterns are observed. We also find an interaction effect between salience and complexity. When an issue is less salient and more complex, i.e., when the benefits are assumed to be lower and the costs greater, we find that consultations are more likely to be biased. When the benefits are assumed to exceed the costs – for more salient and less complex issues – we find less biased outcomes. We also find that consultations

concerning both more complex and salient issues are associated with more bias, indicating that the costs associated with complex issues exceed the benefits of salient ones.

One of the Commission's goals is for the consultations to be inclusive (European Commission, 2002). The findings here indicate that to be able to achieve this goal, formally opening the consultations to everyone does not suffice. If the matters they concern are technically complex, further action may need to be taken to incite wider participation and to avoid policy insiders from enjoying a privileged position in policy making. This is related to how interest groups function as a channel between civil society and decision makers, in addition to the electoral channel (Persson, 2007). When only certain types of interests are represented, the functioning of this channel can be questioned. Decision makers are unlikely to only take the interests of those participating into account (Lowery, 2007), but biased participation might still lead to less representative proposals. This paper shows that more salient consultations are associated with less bias. This again means that these consultations are likely to end up with more representative proposals. This is a positive finding for the proponents of transparency and openness in the European Commission's online consultations. Such a notion is further supported by evaluations of the EU consultation regime that show that this regime itself has not reinforced bias in favour of policy insiders (Bunea, 2017).

The main findings of the paper are also relevant to lobbying in the EU in general. EU issues are generally technically complex and less salient (Broscheid and Coen, 2003; Broscheid and Coen, 2007). This, combined with the fact that the distribution of interest groups that participate in the Commission's online consultations is similar to the distribution in the EU's Transparency Register, could indicate that these patterns are likely to be replicated in lobbying activities that take place outside of formal opportunities to participate. Since there are fewer hurdles to overcome in order to participate in the online consultations, the patterns might, however, be more biased in other consultation activities.

As for other EU institutions, the EP is considered to be an important target for lobbyists as well (Eising, 2007*a*). Previous studies have found that non-business interests

are more likely to gain access to the EP as compared to the Commission (Beyers, 2004; Eising, 2007*b*). As the EP's powers have increased, however, so to has business' access to it (Rasmussen, 2015). This indicates that there might not be very significant differences between which interests that target and gain access across these EU institutions, which again supports the notion that the findings of this paper could be more broadly applicable. The findings can also be relevant to political participation outside the EU when policy issues vary in terms of salience and complexity.

Furthermore, salience and technical complexity have also been found to affect the chances of wielding influence, both in the Commission and in the EP. When the degree of salience is low and issues are complex, the likelihood of influencing the outcome is higher (Mahoney, 2007; Klüver, 2011; Dür et al., 2015; Rasmussen, 2015). In other words, when the degree of bias is higher, the chances of wielding influence are also higher. Hence, when lobbying is less competitive, actual influence is more likely. One avenue for future research is to investigate participation in consultations further to account for how participation bias, salience and technical complexity affect the likelihood of wielding influence over the actual (final) policy proposals adopted in the EU institutions. This is a demanding task as several data sources need to be consulted and properly merged.

Notes

¹ The “other” category mainly includes groups representing humanitarian, religious and patients’ interests.

² Only one consultation included in the dataset was organized in 2001 and 2013. The former has therefore been merged with those held in 2002, and the latter with those held in 2012.

³ Results from Eur-Lex are excluded from the number of “European Union” hits in Factiva.

⁴ There is a low degree of collinearity between the independent variables. The correlation between complexity and salience is, for instance, 0.01. One exception is policy type and cost structure ($r = -0.46$).

References

- Baumgartner, F. R., Berry, J. M., Hojnacki, M., Kimball, D. C. and Leech, B. L. (2009), *Lobbying and Policy Change: Who Wins, Who Loses, and Why*, University of Chicago Press, Chicago.
- Baumgartner, F. R. and Leech, B. L. (1998), *Basic Interests: The Importance of Groups in Politics and in Political Science*, Princeton University Press, Princeton.
- Berkhout, J., Hanegraaff, M. and Braun, C. (2017), ‘Is the EU different? Comparing the diversity of national and EU-level systems of interest organisations’, *West European Politics* **40**, 1109–1131.
- Beyers, J. (2004), ‘Voice and Access: Political Practices of European Interest Associations’, *European Union Politics* **5**, 211–240.
- Beyers, J., Dür, A., Marshall, D. and Wonka, A. (2014), ‘Policy-centred sampling in interest group research: Lessons from the INTEREURO project’, *Interest Groups & Advocacy* **3**(2), 160–173.
- Beyers, J., Eising, R. and Maloney, W. (2008), ‘Researching Interest Group Politics in Europe and Elsewhere: Much We Study, Little We Know?’, *West European Politics* **31**, 1103–1128.
- Bouwen, P. (2004), ‘The Logic of Access to the European Parliament: Business Lobbying in the Committee on Economic and Monetary Affairs’, *Journal of Common Market Studies* **42**, 473–495.
- Broscheid, A. and Coen, D. (2003), ‘Insider and Outsider Lobbying of the European Commission: An Informational Model of Forum Politics’, *European Union Politics* **4**, 165–189.
- Broscheid, A. and Coen, D. (2007), ‘Lobbying activity and fora creation in the EU: empirically exploring the nature of the policy good’, *Journal of European Public Policy* **14**, 346–365.
- Bruycker, I. D. and Beyers, J. (2015), ‘Balanced or Biased? Interest Groups and Legislative Lobbying in the European News Media’, *Political Communication* **32**, 453–474.
- Bunea, A. (2013), ‘Issues, preferences and ties: determinants of interest groups’ preference attainment in the EU environmental policy’, *Journal of European Public Policy* **20**, 552–570.
- Bunea, A. (2014), ‘Explaining Interest Groups’ Articulation of Policy Preferences in the European Commission’s Open Consultations: An Analysis of the Environmental Policy Area’, *Journal of Common Market Studies* **52**, 1224–1241.
- Bunea, A. (2017), ‘Designing stakeholder consultations: Reinforcing or alleviating bias in the European Union system of governance?’, *European Journal of Political Research* **56**, 46–69.
- Cann, D. M., Goelzhauser, G. and Johnson, K. (2014), ‘Analyzing Text Complexity in Political Science Research’, *PS: Political Science & Politics* **47**(3), 663–666.

- Chalmers, A. W. (2013), ‘Trading information for access: informational lobbying strategies and interest group access to the European Union’, *Journal of European Public Policy* **20**, 39–58.
- Chalmers, A. W. (2014), ‘Getting a Seat at the Table: Capital, Capture and Expert Groups in the European Union’, *West European Politics* **37**, 976–992.
- Coen, D. (2007), ‘Empirical and theoretical studies in EU lobbying’, *Journal of European Public Policy* **14**, 333–345.
- Coen, D. and Katsaitis, A. (2013), ‘Chameleon pluralism in the EU: an empirical study of the European Commission interest group density and diversity across policy domains’, *Journal of European Public Policy* **20**, 1104–1119.
- Coleman, B. and Phung, Q. (2010), ‘The Language of Supreme Court Briefs: A Large-Scale Quantitative Investigation’, *J. App. Prac. & Process* **11**(1).
- Dür, A., Bernhagen, P. and Marshall, D. (2015), ‘Interest Group Success in the European Union: When (and Why) Does Business Lose?’, *Comparative Political Studies* **48**, 951–983.
- Eising, R. (2007a), ‘The access of business interests to the eu institutions: towards elite pluralism?’, *Journal of European Public Policy* **14**, 384–403.
- Eising, R. (2007b), ‘Institutional Context, Organizational Resources and Strategic Choices: Explaining Interest Group Access in the European Union.’, *European Union Politics* **8**, 329–362.
- Eshbaugh-Soha, M. (2006), ‘The Conditioning Effects of Policy Salience and Complexity on American Political Institutions’, *The Policy Studies Journal* **34**, 223–243.
- European Commission (2002), ‘Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission’. COM(2002) 704 final.
- Ferretti, M. P. and Lener, M. (2008), ‘Lay Public or Experts? e-Participation in Authorization for GMO Products in the European Union’, *Review of Policy Research* **25**, 507–525.
- Flesch, R. (1948), ‘A New Readability Yardstick’, *Journal of Applied Psychology* **32**, 221–233.
- Gormley, W. T. (1986), ‘Regulatory Issue Networks in a Federal System’, *Polity* **18**, 595–620.
- Greenwood, J. (2011), *Interest Representation in the European Union*, Palgrave Macmillan, Basingstoke.
- Junk, W. M. (2016), ‘Two logics of NGO advocacy: understanding inside and outside lobbying on EU environmental policies’, *Journal of European Public Policy* **23**, 236–254.
- Klüver, H. (2011), ‘The contextual nature of lobbying: Explaining lobbying success in the European Union’, *European Union Politics* **12**, 483–506.

- Lowery, D. (2007), ‘Why Do Organized Interests Lobby? A Multi-Goal, Multi-Context Theory of Lobbying’, *Polity* **39**, 29–54.
- Lowery, D. and Gray, V. (2004), ‘A Neopluralist Perspective on Research on Organized Interests’, *Political Research Quarterly* **57**, 163–175.
- Lowry, W. R. and Joslyn, M. (2014), ‘The Determinants of Salience of Energy Issues’, *Review of Policy Research* **31**, 153–172.
- Mahoney, C. (2004), ‘The Power of Institutions: State and Interest Group Activity in the European Union’, *European Union Politics* **5**, 441–466.
- Mahoney, C. (2007), ‘Lobbying Success in the United States and the European Union’, *Journal of Public Policy* **27**, 35–56.
- Neshkova, M. I. (2014), ‘Salience and Complexity in Supranational Policymaking: The Case of Subnational Interests’, *Governance* **27**, 9–36.
- Olson, M. (1971), *The Logic of Collective Action: Public Goods and the Theory of Groups*, Harvard University Press, Cambridge.
- Persson, T. (2007), ‘Democratizing European Chemicals Policy: Do Consultations Favour Civil Society Participation?’, *Journal of Civil Society* **3**, 223–238.
- Quittkat, C. (2011), ‘The European Commission’s Online Consultations: A Success Story?’, *Journal of Common Market Studies* **49**, 653–674.
- Quittkat, C. and Kotzian, P. (2011), ‘Lobbying via Consultation – Territorial and Functional Interests in the Commission’s Consultation Regime’, *Journal of European Integration* **33**, 401–418.
- Rasmussen, A. and Carroll, B. J. (2014), ‘Determinants of Upper-Class Dominance in the Heavenly Chorus: Lessons from European Union Online Consultations’, *British Journal of Political Science* **44**, 445–459.
- Rasmussen, A., Carroll, B. J. and Lowery, D. (2014), ‘Representatives of the public? Public opinion and interest group activity’, *European Journal of Political Research* **53**, 250–268.
- Rasmussen, M. K. (2015), ‘The Battle for Influence: The Politics of Business Lobbying in the European Parliament’, *Journal of Common Market Studies* **53**, 365–382.
- Riker, W. H. and Ordeshook, P. C. (1968), ‘A Theory of the Calculus of Voting’, *The American Political Science Review* **62**, 25–42.
- Ringquist, E. J., Worsham, J. and Eisner, M. A. (2003), ‘Salience, Complexity, and the Legislative Direction of Regulatory Bureaucracies’, *Journal of Public Administration Research and Theory* **13**, 141–164.
- Schattschneider, E. E. (1960), *The Semisovereign People*, Holt, Rinehart and Winston, New York.

- Schlozman, K. L., Verba, S. and Brady, H. E. (2012), *The Unheavenly Chorus: Unequal Political Voice and the Broken Promise of American Democracy*, Princeton University Press, Princeton.
- Shepsle, K. A. (1997), *Analyzing Politics: Rationality, Behavior and Institutions*, W. W. Norton, New York.
- Steffek, J. and Ferretti, M. P. (2009), ‘Accountability or ”Good Decisions”? The Competing Goals of Civil Society Participation in International Governance’, *Global Society* **23**, 37–57.
- Truman, D. B. (1951), *The Governmental Process: Political Interests and Public Opinion*, Knopf, New York.
- Wøien Hansen, V. (2014), ‘Incomplete information and bargaining in the EU: An explanation of first-reading non-agreements’, *European Union Politics* **15**, 472–495.
- Wonka, A., Baumgartner, F. R., Mahoney, C. and Berkhout, J. (2010), ‘Measuring the size and scope of the EU interest group population’, *European Union Politics* **11**, 463–476.

Online appendix

[Figure 3 about here.]

[Table 3 about here.]

[Table 4 about here.]

		Saliency	
		low	high
Complexity	low	No definite expectation	Less participation bias
	high	More participation bias	No definite expectation

Figure 1: Expectations of the interaction effect between saliency and complexity

(a) Salience held constant at 0 media hits

(b) Salience held constant at 15 media hits

(c) Salience held constant at 30 media hits

(d) Salience held constant at 60 media hits

Figure 2: Effect of interaction between salience and technical complexity on participation bias. 95 per cent confidence intervals.

	The consultations concern:	Type of consultation document:	Examples:	Our argument:
The least complex consultations:	<ul style="list-style-type: none"> -The resale right directive -Financial sector taxation -Clean transport systems initiative -The de minimis regulation 	Questionnaires with both general and specific questions.	<p>Re-sale right directive: includes questions on how the art market in one's country generally works as well as the specific role of the resale right directive in this regard.</p> <p>Financial sector taxation: asks for the respondent's opinion on whether the initiative is justifiable, the role of the financial sector in the financial crisis, potential impacts of taxation, and so on.</p>	In sum: the questions would not necessarily require extensive knowledge of the technicalities.
The most complex consultations:	<ul style="list-style-type: none"> -Public information on paediatric clinical trials entered in the European database EudraCT -Revision of the draft European interoperability framework -The draft legal act on the harmonization and interoperability of environmental information -Revision of the code of conduct for responsible nano sciences and nano technologies research 	Documents that include few questions to guide the respondents but instead require them to comment on a range of specific issues and details.	<p>The draft legal act on the harmonization and interoperability of environmental information: respondents are asked to provide input on the INSPIRE Data Specification for the spatial data theme atmospheric conditions and meteorological geographical features.</p> <p>Revision of the code of conduct for responsible nano sciences and nano technologies research: respondents are asked to provide input on the Commission's draft recommendation.</p>	In sum: In order to contribute, in-depth knowledge of the issues is required.

Figure 3: Illustration of how the FRE measure captures the extent to which it is possible to understand the content of the consultation and be able to participate in it (even if one does not necessarily know the details of the issues beforehand).

Table 1: Descriptive statistics

Statistic	N	Mean	St. Dev.	Min	Max
<i>Dependent variable</i>					
Bias	378	68.26	12.92	0.00	78.84
<i>Independent and control variables</i>					
Salience (media hits)	378	26.38	47.34	0	306
Complexity (Flesch reading ease level)	359	75.10	7.45	38.29	100.00
Actor bias	378	0.41	0.11	0.23	0.94
Interest group density	378	0.46	0.53	0.01	4.29
Policy type	378	1.61	0.79	1	3
Cost structure	378	0.52	0.50	0	1
Duration (log)	378	2.31	0.44	1.00	3.82
Openness	376	0.46	0.61	0	2

Table 2: The effect of salience and technical complexity on bias. OLS. All models include DG and year fixed effects.

	<i>Dependent variable:</i>		
		Bias	
	(1)	(2)	(3)
Salience	−0.03** (0.01)	−0.03** (0.01)	−0.42*** (0.11)
Complexity	0.18** (0.08)	0.17** (0.08)	0.02 (0.09)
Complexity × salience			0.01*** (0.001)
Actor bias	13.60** (5.69)	13.72** (5.78)	13.57** (5.67)
Interest group density	−2.35* (1.21)	−2.43* (1.25)	−2.61** (1.23)
Policy type: Expenditure Ref.cat: Regulatory	−4.89*** (1.78)	−4.78*** (1.82)	−5.07*** (1.79)
Policy type: Administrative Ref.cat: Regulatory	−1.87 (1.81)	−1.84 (1.84)	−1.58 (1.80)
Cost structure: Concentrated Ref.cat: Diffuse	0.11 (1.44)	0.13 (1.45)	0.64 (1.43)
Duration		0.27 (1.47)	−0.10 (1.44)
Openness: Selective Ref.cat: Open		−0.43 (1.52)	−0.03 (1.50)
Openness: Closed Ref.cat: Open		0.11 (2.62)	−0.08 (2.57)
Constant	65.96*** (10.87)	65.35*** (11.84)	77.76*** (12.11)
Observations	357	357	357
R ²	0.43	0.43	0.45
Adjusted R ²	0.36	0.35	0.38
Residual Std. Error	10.51 (df = 318)	10.56 (df = 315)	10.36 (df = 314)
F Statistic	6.22*** (df = 38; 318)	5.72*** (df = 41; 315)	6.10*** (df = 42; 314)
<i>Note:</i>		*p<0.1; **p<0.05; ***p<0.01	

Table 3: The effect of salience and technical complexity on bias. Multilevel analysis. All models include year fixed effects.

	<i>Dependent variable:</i>		
	Bias		
	(1)	(2)	(3)
Salience	−0.03** (0.01)	−0.03** (0.01)	−0.41*** (0.11)
Complexity	0.17** (0.08)	0.17** (0.08)	0.02 (0.09)
Salience × complexity			0.01*** (0.001)
Actor bias	13.81** (5.66)	13.73** (5.74)	13.59** (5.64)
Interest group density	−2.38** (1.21)	−2.45** (1.25)	−2.63** (1.23)
Policy type: Expenditure Ref.cat: Regulatory	−4.99*** (1.74)	−4.82*** (1.78)	−5.07*** (1.75)
Policy type: Administrative Ref.cat: Regulatory	−1.84 (1.80)	−1.81 (1.82)	−1.58 (1.79)
Cost structure: Concentrated Ref.cat: Diffuse	0.52 (1.42)	0.53 (1.43)	1.02 (1.41)
Duration		0.01 (1.46)	−0.33 (1.43)
Openness: Selective Ref.cat: Open		−0.78 (1.51)	−0.36 (1.48)
Ref.cat: Closed Ref.cat: Open		−0.12 (2.60)	−0.23 (2.55)
Constant	51.83*** (8.48)	52.25*** (9.55)	64.01*** (9.94)
DG-level variance	115.0	113.5	114.8
Observations / DGs	357 / 22	357 / 22	357 / 22
Log Likelihood	−1,340.91	−1,336.32	−1,335.52
Akaike Inf. Crit.	2,721.82	2,718.63	2,719.04
Bayesian Inf. Crit.	2,799.38	2,807.82	2,812.11

Note: *p<0.1; **p<0.05; ***p<0.01

Table 4: The effect of salience (Factiva hits for subject “European Union”) and technical complexity on bias. All models include DG and year fixed effects.

	<i>Dependent variable:</i>		
		Bias	
	(1)	(2)	(3)
Salience (Factiva)	−0.02* (0.01)	−0.02* (0.01)	−0.42*** (0.14)
Complexity	0.18** (0.08)	0.18** (0.08)	0.05 (0.10)
Complexity × salience (Factiva)			0.01*** (0.002)
Actor bias	14.05** (5.69)	14.17** (5.78)	13.40** (5.72)
Interest group density	−2.51** (1.20)	−2.62** (1.25)	−2.59** (1.23)
Policy type: Expenditure Ref.cat: Regulatory	−4.92*** (1.79)	−4.79*** (1.83)	−5.19*** (1.82)
Policy type: Administrative Ref.cat: Regulatory	−1.99 (1.81)	−1.93 (1.84)	−1.73 (1.82)
Cost structure: Concentrated Ref.cat: Diffuse	0.15 (1.44)	0.17 (1.45)	0.59 (1.44)
Duration		0.37 (1.47)	0.09 (1.45)
Openness: Selective Ref.cat: Open		−0.56 (1.52)	−0.33 (1.51)
Openness: Closed Ref.cat: Open		−0.13 (2.63)	−0.35 (2.60)
Constant	66.40*** (10.90)	65.72*** (11.89)	76.42*** (12.34)
Observations	357	357	357
R ²	0.42	0.42	0.44
Adjusted R ²	0.35	0.35	0.36
Residual Std. Error	10.53 (df = 318)	10.58 (df = 315)	10.46 (df = 314)
F Statistic	6.15*** (df = 38; 318)	5.66*** (df = 41; 315)	5.84*** (df = 42; 314)

Note:

*p<0.1; **p<0.05; ***p<0.01