The European Commission's Expert Groups

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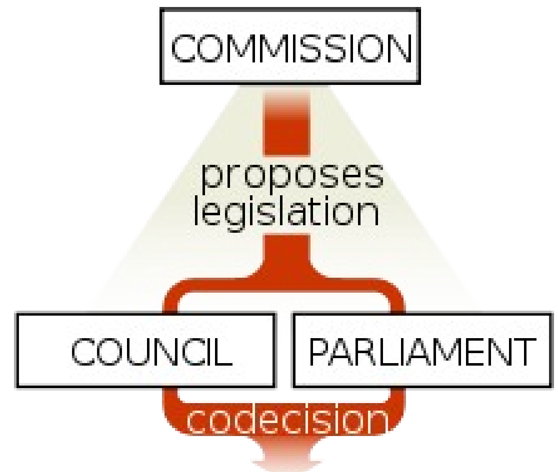
European Commission

Quasi- monopoly of legislative initiative

- The Commission proposes around 100 legislative pieces per year and nearly all get adopted
- #1 target of lobbyists



Commission drafts laws for half billion Europeans

- A big part of the legislation in force In the Member States has its origins in EU law and therefore the Commission.

- Commission is a small administration given the volume of its tasks. Particularly when compared with the size of national governments:
Commission has 24,000 staff
(32,000 including outsourced staff)
Many French ministries have above 30,000.

- Only less than 12,000 AD officials actually deal with legislation.

Has the Commission sufficient in-house knowledge basis?

- 3,500 staff working in the Commission's research and statistical facilities (Eurostat, RTD, JRC)

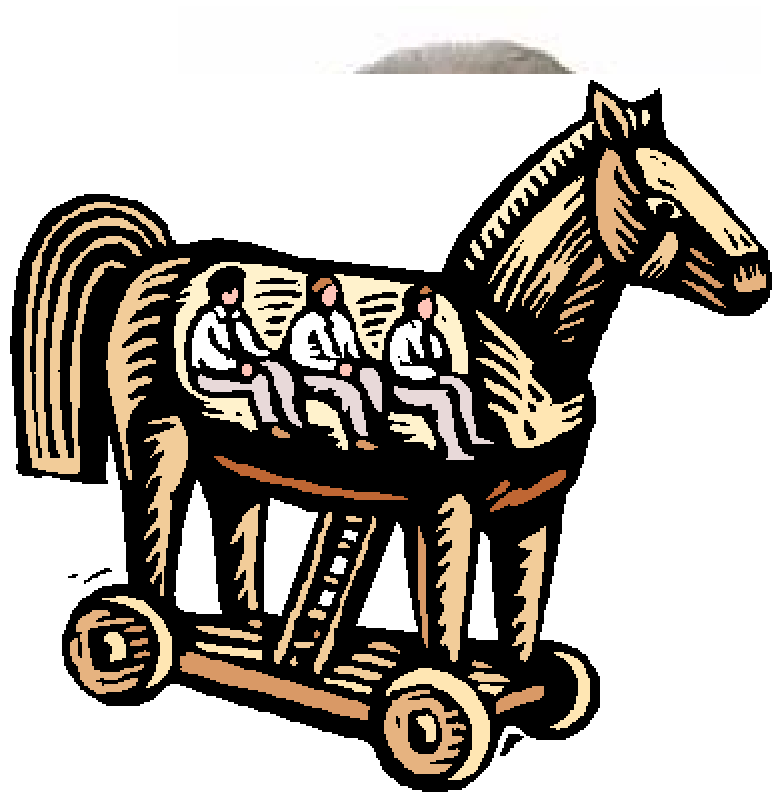
- 7,300 staff of the EU Agencies

- Research staff in various DGs

Options to get external expertise

Commission may mobilise expertise from:

- Member States' experts
- Public universities and civil society
- The thousands of corporate lobbyists present in Brussels



ALTER-EU's assumption: Expertise deficit is the lobbyists' entry point

Expert groups: the most widely used method to collect expertise

896 expert groups currently in the register

What do they do?

They produce the frirst legislative and policy drafts

What is their composition?

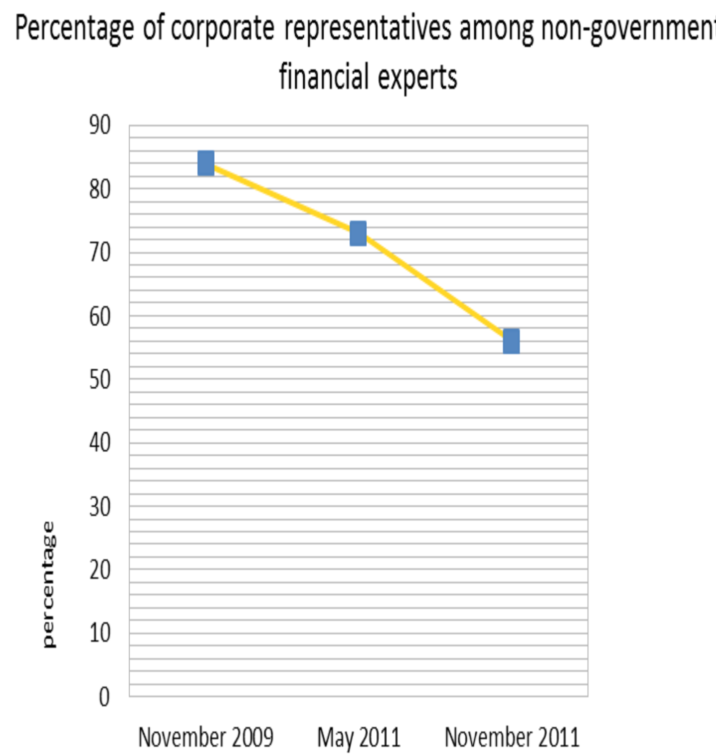
- Approx. 2/3 of them are composed purely of member states representatives
- Among the other ones 100 or more are controlled by corporations, trade associations etc. (May 2011 data)

ALTER-EU findings and main concern

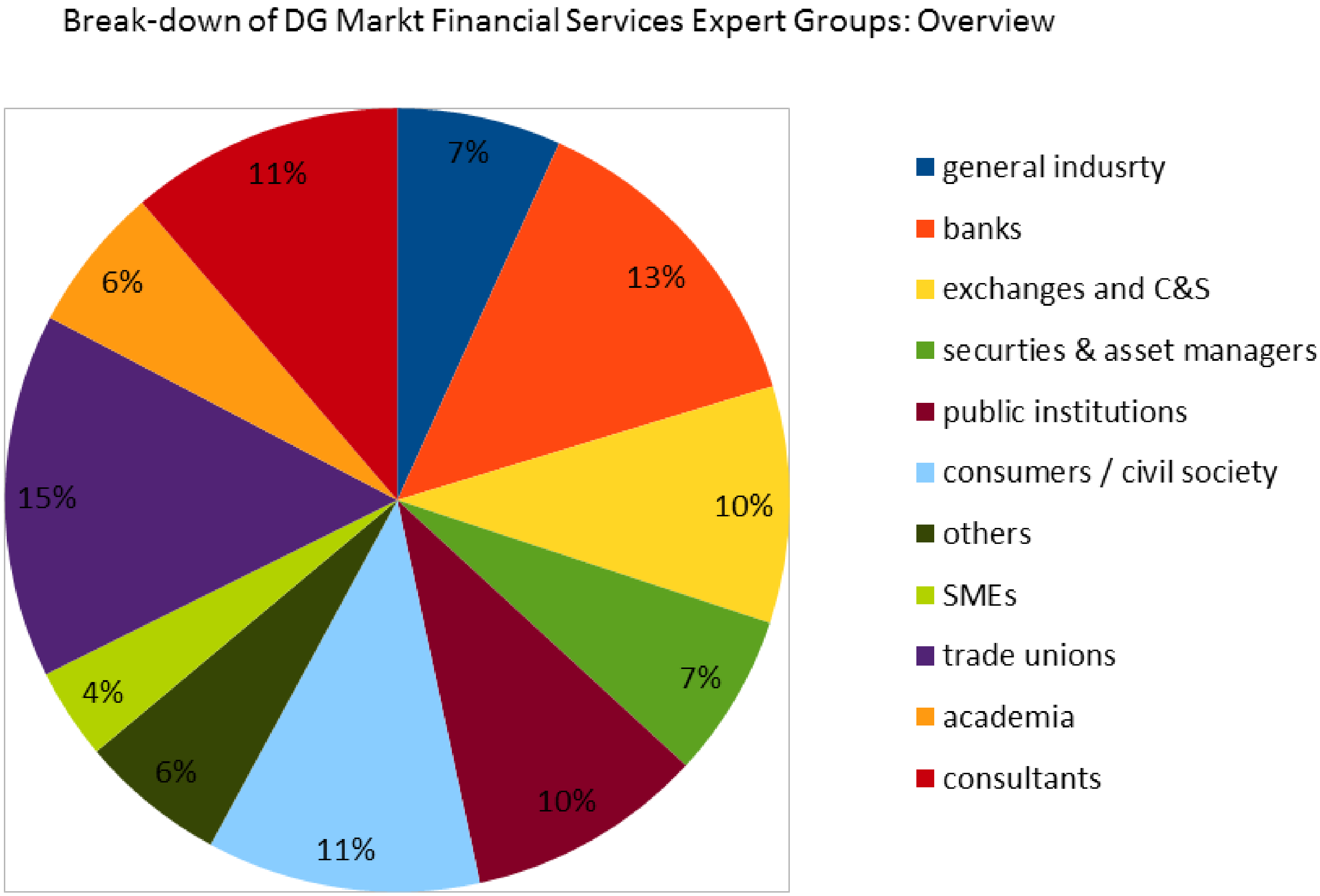
- In the policy areas or DGs covered by our research, representatives of corporations are always more numerous than all other non-state categories together
- Corporate-dominated groups are also more numerous than groups dominated by other non-state interests
- <u>The problem is</u>: Big business should not be given a privileged role in the drafting phase of EU legislation and policies
- Companies, trade associations etc. represent a tiny minority in society: corporations’ shareholders

State of play
financial expert groups

- DG MARKT set up a new website on its expert groups. Info does not agree with what is on the register (11 vs 38)
- If data is clarified by the end of the year, that would mean a step in the right direction



DG MARKT's version



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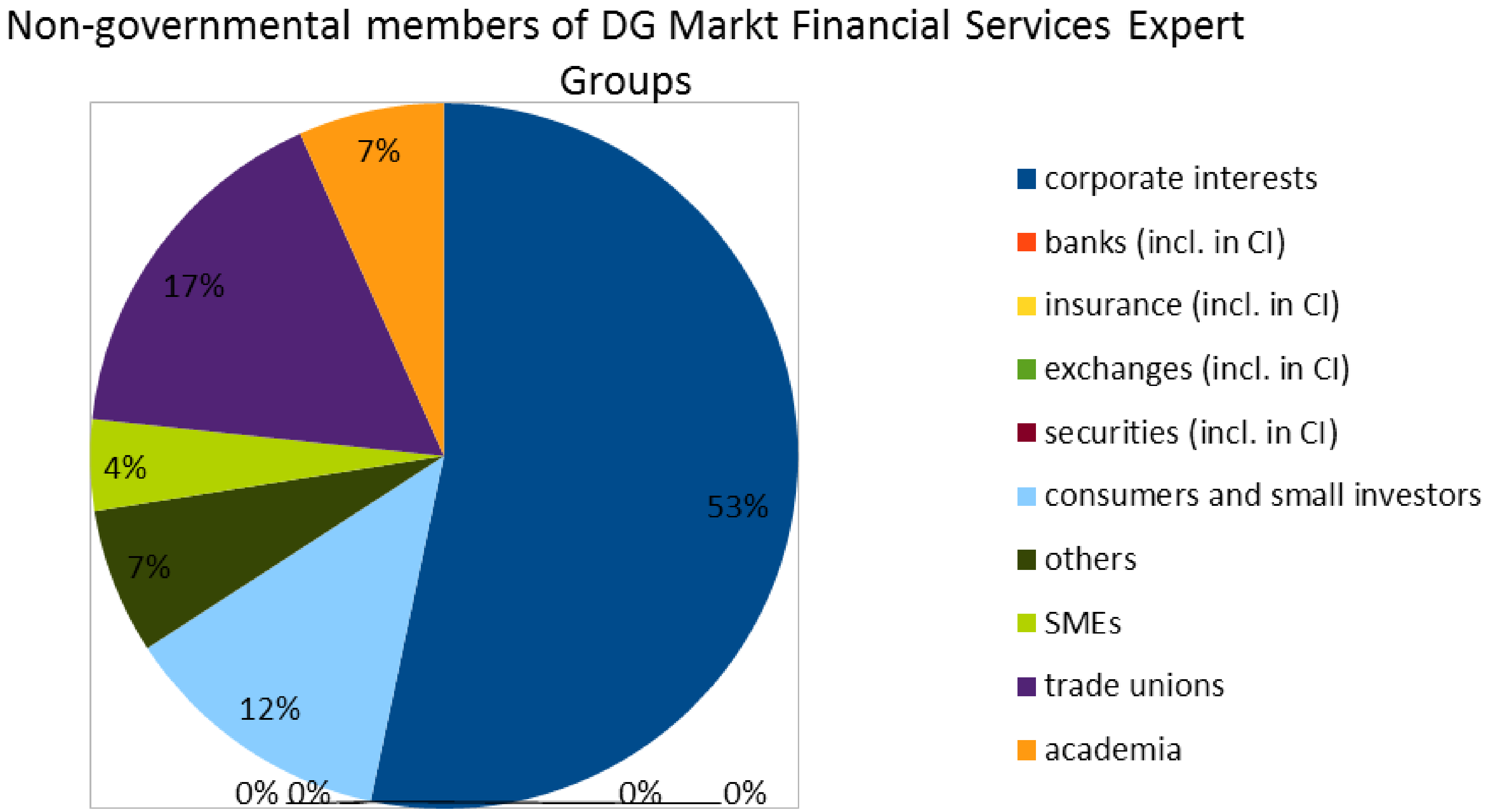

Stroghold of corporations in finance still not broken

- Tax Barriers Business Advisory Group (T-BAG): 19 out of 22 members from corporations.
- Expert Group on Market Infrastructures (EGMI): 31 out of 38 members from corporations.
- Single Euro Payments Area (SEPA) group:

  6 out of 9 non-state members from corporations + five national authorities
- The financial employees' group is made up of 18 trade-unionists. But is it as influencial as the ones above?

DG ENTR expert groups

Data collected in August 2011

Total DG ENTR expert groups: 85

- Groups including non-state stakeholders: 50
- Groups dominated by corporate interests: 31
- Groups dominated by academia-independent research: 5
- Groups dominated by SMEs: 2
- Groups with more or less balanced composition: 2

In terms of individual experts**:**

454 corporate advisers and only **209** from all the other

non-state categories together

(consumers, environmentalists, employees etc.)

DG CLIMA

5 groups:

4 corporate-dominated and

1 with academics only.

1. **ECCP Ships: 26 corporations – 15 others**
2. **HIGH-LEVEL-SHIPS: 9 business – 4 others**
3. **F-Gas: 25 business – 3 NGOs**
4. **Adaption to climate change: 7 business – 5 others**
5. **Tremove: 6 academics**

Total	158
Ministries and national authorities	71
Business	51
NGO	11
Others	16
EU	9

Differences between Commission rules and EP demands (1)

- EP: ‘Prohibit a single interest category (…) from having the majority of the non-government and non-EU seats in any expert group. **Provide safeguards against capture** from special interests and corporate interests.’

- Com: ‘the Commission and its departments **shall aim at ensuring** a balanced representation of relevant areas of expertise and areas of interest (…) **while taking into account the specific tasks** of every particular expert group and the type of expertise required’

Differences between Commission rules and EP demands (2)

- EP: **'Ban lobbyists and corporate executives sitting in expert groups in a 'personal capacity**'. The Commission should clarify whether members of an expert group are there as stakeholders or as experts committed to acting in the public interest. The second should **be thoroughly checked for conflicts of interest and their "declaration of professional activities" should be in the public domain.**

- COM: 'The Commission services concerned shall inform experts who are appointed in their personal capacity that**, by accepting to be members of the group, they commit themselves to act independently** and in the public interest. Commission services shall also inform those experts **that they may be excluded** from the group or a specific meeting thereof, **should a conflict of interest arise**.'

- ALTER-EU agrees with EP:

  Conflicts of Interest should be checked proactively.

Differences between Commission rules and EP demands (3)

- EP: ‘Common selection criteria throughout all DGs, that guarantee balance among different categories of stakeholders and absence of Conflict of Interests for experts and establish an obligatory open selection process with a public call and a published mandate of each expert group which goes beyond a simple representation of Member states authorities.’

- Commission has repeatedly refused any possibility of common rules.

Good governance and administration principles should be implemented

Provisions

- Article 9 of the Treaty of Lisbon:

  ‘the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies.’

- The European Ombudsman’s European Code of Good Administrative Behaviour (Article 6):

  ‘When taking decisions, the official shall respect the fair balance between the interests of private persons and the general public interest.’

  (Ombudsman to publish his ruling on expert groups soon)

The Problem

- Commission’s Code of conduct on use of expertise and consultation standards talk about ‘’balance’’ but do not provide the tools to safeguard it. Rules in place insufficient to implement the above-mentioned principles.

The Solution

- There is a clear case for <u>New rules on expert groups</u> to be drafted in consultation with the Parliament.

Parliament can do even more

- Article 298 of the Treaty

  “In carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and **independent** European administration”.

- Parliament’s JURI Committee thinks of asking the Commission to present a proposal for a ‘**single general administrative law binding on the Union's institutions**’ that provides ‘a **minimum safety net of guarantees to citizens** and businesses in their direct dealings with the EU's administration’ (potentially including the preparation of legislation)

- The expert groups register should also be included in such an instrument (as is already the case with the lobby register)

- Safeguards (including procedural ones) against capture by a single interest category should be considered as a ‘minimum safety net’.

Legitimacy of the Commission

- The Commission is seeing its powers increased (incl. power to amend national budgets)
- It is not any more just a market regulator
- It is not democratically elected but appointed
- It should increase its legitimacy by consulting all interests in society by:

  - breaking with phenomena of regulatory capture
  - abolishing the current primacy of corporations in the Commission’s advisory structure.

Change is urgent

- Four-point decrease in trust (40%) since autumn 2010 (2nd institution in fall after the Council)
- Commission from 52% in 2007 to 40%
- Trust in the EU has fallen from 57% in 2007 to 41% in spring 2011
- Distrust from 32% in 2007 to 47% (Eurobarometer)

Thank you for your attention!

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