

Lobbying the EU Copyright Directive

Master's thesis

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LOBBYING THE EU COPYRIGHT DIRECTIVE

ABSTRACT

The world has rapidly grown in the digital realm, especially regarding consumer behaviour and the use of technology. Online sharing service providers have become integral to daily life and have surpassed existing legislation on the rights and limitations of copyright protected work. Moreover, the European Union has broadened its scope and influence to more policy areas. Consequently, more organisations travel to Brussels to express their opinion on EU policies. Some of these organisations are not from the EU and some are firms that skip lobby organisation and attempt to influence the EU directly themselves. Using the European Union Copyright Directive as a case, this thesis sets out to answer the research question: Does logic of collective action theory, access theory, interest group strategy or interest group characteristics better explain the influence exerted by Google, GESAC and BEUC lobbying the EU Copyright Directive?

By triangulating the methods process-tracing and preference attainment, this thesis uncovers the actions and influence of three interest groups in several phases of the EU decision-making procedure. Studying the interest groups' behaviour and attained preferences when approaching the European Commission, Parliament, the Council and the European public provides an insight in the interest groups' influence.

The results of this thesis show that the access theory best explains the influence exerted by Google, GESAC and BEUC in lobbying the EU Copyright Directive. Hence, this thesis suggests that lobbying the European Union as an exchange of critical resources between interest groups and EU institutions. Consequently, the influence exerted by an interest group depends on the information they possess and the institution they lobby. More so, in the case of the EU Copyright Directive, expectations assuming differences between diffuse and special interest were not confirmed in this thesis.

Acknowledgements

Hereby, I present to you my master's thesis. With this thesis, I conclude my studies at Erasmus University Rotterdam. Over the past few months, I have looked into lobbying literature of the European Union with enthusiasm and curiosity. More so, I have enjoyed the last four years as a student at Erasmus University.

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Additionally, I want to thank my family, particularly my parents, and my boyfriend Daan. Their determination and optimism have inspired me in the way I approached my studies and I aspire to approach the next chapters of my life in a similar fashion. Moreover, I could have never finished this master without their unconditional support.

Now, all that remains for me to say is: I hope you enjoy this thesis and you will find yourself reading it with as much enthusiasm and curiosity about lobbying the Copyright Directive as I experienced writing it.

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Abbreviations

BEUC:	Bureau Européen des Unions de Consommateurs
CCIA:	Computer and Communications Industry Association
CJEU:	Court of Justice of the European Union
CMOs:	Collective management organisations
CULT:	Committee on Culture and Education
DEI:	Domestic Encompassing Interests
DG:	Directorate-General
EEA:	European Economic Area
EI:	European Encompassing Interests
EMMA:	European Magazine Media Association
ENPA:	European Newspaper Publishers' Association
EP:	European Parliament
EU:	European Union
GAFA:	Google, Apple, Facebook and Amazon
GDPR:	General Data Protection Regulation
GESAC:	Groupement Européen des Sociétés des Auteurs et Compositeurs
IFPI:	International Federation for the Phonographic Industry
IMCO:	Committee on Internal Market and Consumer Protection
ISSP:	Information society service provider
ITRE:	Committee on Industry, Research and Energy
JURI:	Committee on Legal Affairs
LDA:	Lobbying Disclosure Act
LIBE:	Committee on Civil Liberties, Justice and Home Affairs
MEP:	Member of European Parliament
OCSSP:	Online content sharing service provider
SAA:	Society of Audiovisual Authors
SACEM:	Société des Auteurs, Compositeurs et Editeurs de Musique
SMEs:	Small and medium-sized enterprises
UGC:	User-generated content
UUC:	User-uploaded content
US:	United States of America

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Chapter 1: Introduction

1.1 Introduction

Compare your contemporary daily life to the daily routine you had fifteen years ago. Whereas you used to wait on your newspaper to arrive or the news program to begin on TV, nowadays you probably check internet platforms or apps to get the latest updates. Or think of your family vacation photos, when was the last time you made a hard-copy photo album? Or did you start sharing photos immediately on online platforms?

The world has changed rapidly in the past fifteen years, particularly regarding consumer behaviour and technology. European citizens have increasingly extended their life to the online world and have enjoyed the access and freedom that comes along with it (BEUC et al., 2016). However, users' ability to share and access content has grown faster than artists' ability to be fairly remunerated for their work. The question arose whether the users' increased access to creative content caused artists difficulty in continuing to create the content (GESAC, 2016a).

The European Union has not been able to update its policies according to the changes of the digital landscape. The most recent directive on copyright was legislated in 2001 without any anticipation of the digitalized world that would be created over the years (BEUC et al., 2016). Therefore, in 2016, the European Union (EU) decided to update its legislation on copyright. However, this time around, the EU had to consider the involvement of non-EU actors, which resulted in competitive lobbying (Europe for Creators, 2019).

1.2 Problem statement

Recently, the European Union has re-evaluated its current policies and has deliberated new policies regarding the rapidly changing digital landscape. The growth of the internet and the replacement of multiple aspects that are part of daily life to the online realm have raised some criticism in the past. Tech giants have enjoyed and profited from a largely unregulated field, allowing to grow big and fast. These tech giants are predominantly American companies, commonly referred to as GAFA. GAFA stands for Google, Apple, Facebook and Amazon. Especially since Facebook's Cambridge Analytica scandal came to light, EU citizens are more and more concerned with the protection of their rights online. In this scandal, the data of almost 82 million Facebook users was breached. The EU has had previous conflicts with the tech giants, most notably concerning the amount of taxes the tech giants refuse to pay. Over the past years, the EU has realised that these companies cannot be ascribed self-regulation. Instead, the European Union wants to increase regulation in this sector. (Kayali, 2019; The Economist, 2019).

The first policy passed within the EU that heavily affected tech giants was the General

Data Protection Regulation (GDPR). This policy has been named to have been the most expensive lobbied policy within the EU (Antypas, 2018). Considering the intensity of lobbying efforts is dependent on the increasing scope of EU regulation, the notion that firms operating in a highly regulated market lobby more heavily is not surprising (Dellis & Sondermann, 2017). When a market is highly regulated, a firm is more likely to directly lobby. The GDPR, as the first major regulation in the tech industry, resulted in the tech giants of Silicon Valley increasing their lobbying expenditure in the European Union by as much as 278 percent (Antypas, 2018; Kergueno, 2017).

Additionally, the decisions made within the European Union have sparked debates in the United States as well. Both debates on protection of online personal data discussed in the GDPR and reform of copyright rules have started discussions in American politics. Hence, the decisions made in the European Union affected the regulations on the tech sector overseas (Schulze, 2019).

Moreover, non-European parties have increasingly developed an interest in EU politics and vice versa. As companies like GAFAM have increased their presence in European citizens' daily life, the European Union needs to consider the economic consequences of regulating the sectors in which companies operate in as well. Also, these companies have valuable expert knowledge the EU needs to develop its policies (Eising, 2007a). However, this aspect will be referred back to in the following sections of this thesis.

1.3 Research aim and research question

The main aim of this thesis is to evaluate the influence of non-EU companies in the EU policy process. According to Transparency International, Google increased its lobbying expenditure the most compared to other tech giants. As mentioned above, American tech giants increased their lobbying expenditure by 278%. Google had the highest increase in its expenditure, as it increased with 240% since 2014 (Kergueno, 2017). Therefore, Google is an interesting organisation to evaluate the influence of tech companies in the EU. Other reasons to focus on Google is explained in chapter 5 of this thesis. To establish whether influence is exerted, Google is compared to two other interest groups with countervailing power: GESAC and BEUC. These interest groups are introduced in chapter 6.

Another aim of this thesis is to determine which factors determine lobby influence. In previous literature, multiple theories are outlined on lobbying influence of interest groups. This thesis aims at assessing which of theories is most relevant in explaining exerted influence in the EU Copyright Directive. Therefore, the research question of this thesis is:

RQ: Does logic of collective action theory, access theory, interest group strategy or interest group characteristics better explain the influence exerted by Google, GESAC

and BEUC lobbying the EU Copyright Directive?

1.4 Theoretical and societal relevance

Although non-EU actors are increasingly involved in the EU decision-making process, research on these actors is lacking. Considering the increased involvement of foreign companies in EU policy-making, specifically American tech companies, this thesis can contribute to providing an insight in the strategies and exerted influence of these actors on EU policy. Therefore, this thesis can contribute to a theoretical understanding of US companies in European lobbying activities.

Regarding the societal relevance, this thesis can contribute to enhancing knowledge and increasing transparency about non-EU lobbying. As put forward by ALTER-EU (n.d.) and Transparency International EU (n.d.), lobbying in itself is not a direct threat to the public good. However, as lobbying is currently done in the shadows, and many meetings are not reported, the relationship between European officials and lobbyists can be seen as secretive (ALTER-EU, n.d.; Transparency International EU, n.d.).

1.5 Research structure

The structure of this thesis is as follows. Firstly, the literature review outlines the research previously conducted on the topics of lobbying in general and in the European Union. This is followed by the theoretical framework. This chapter narrows down the literature review to several important theories that are researched in this thesis. From this, predictions are formulated that are tested in this thesis. In the fourth chapter, background information is provided on the EU Copyright Directive. After providing this information, the following chapter outlines the research design. This includes the method and the data collection. In the chapter thereafter the process-tracing method is conducted, followed by Chapter 7 in which the predictions outlined in Chapter 3 are either confirmed or rejected. Finally, Chapter 8 discusses the results reported in Chapter 7 and provides a conclusion. Additionally, this final chapter gives suggestions for further research.

Chapter 2: Literature review

In the following sections, previous literature relevant to this thesis is discussed. These sections discuss the definitions of the key concepts in this thesis, which are lobbying, influence and access. Furthermore, the institutional context of the European Union is explained by discussing the European Commission, Parliament and Council. The ordinary legislative procedure, the decision-making procedure with which the Copyright Directive was developed, is outlined in this section as well. Moreover, different types of interest groups and the inclusion of non-EU actors in the EU policy-making process are discussed in this chapter.

2.1 Definitions of lobbying

As the research question includes the influence exerted through lobbying on the EU Copyright Directive, the act of lobbying should be defined. Lobbying is traditionally referred to as ‘the influence exerted on the legislative institution’ (Mihut, 2008, p. 6). The American Lobbying Disclosure Act, developed in 1995, defined lobbying activities as “lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work” (LDA in Mihut, 2008, p.6). Lobbying contacts are described in this Act as any communication, including written, oral and digital communication, to an executive of legislative branch (Mihut, 2008).

The debate on defining lobbying was more complex in Europe. In the 1990s, the European Parliament wanted to regulate lobbying activities. In order to do this, a European common definition of lobbying had to be established. Eventually, the European Commission defined lobbying broadly as “activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions” (European Commission in Mihut, 2008, p.6).

In academic literature, however, lobbying has been defined differently. Berg (2009) describes lobbying as allowing ‘the voice of citizen groups, associations, corporations and others to be heard in the political arena’ by presenting information to government officials (Berg, 2009, p. 1). Berg (2009) argues that lobbying is a communication process and states that it is a way of influencing the policy process.

Furthermore, scholars have been critical of the lobbying definitions formulated by the American government and the European Union, as these definitions would not be encompassing the complexity of lobbying (Greenwood, 2003; Watson & Shackleton, 2006). Instead, they differentiate ‘direct’ lobbying from ‘grassroots’ lobbying. Direct lobbying entails exerting influence in governmental institutions. Lobbyists contact legislative and executive branches, and sometimes courts. Grassroots lobbying is defined as seeking ‘to influence the decision-making process indirectly, through mobilizing public opinion’ (Mihut, 2008, p.6).

The importance of grassroots lobbying is included in three key functions of lobbyists. The first key function is disseminating information needed by legislators to create legislation. The second function is monitoring public opinion on important issues. The third function involves setting the political agenda (Berg, 2009).

This thesis follows the definition of lobbying set by European scholars, in which lobbying is a way of various groups voicing their opinion in the political arena. This research considers all type of communication between lobbyists and legislative branches. However, this thesis does not distinguish between oral, written and digital communication. Moreover, this thesis sheds some light on direct and grassroots lobbying. The predictions formulated in chapter 3 discuss directly lobbying EU officials and attempts to influence public opinion.

2.2 Lobbying European Union institutions and the ordinary legislative procedure

The European institutional setting provides interest groups with multiple access points. The diversity of the tasks and aims of the European Commission, the European Parliament and the Council of the European Union requires each institution to obtain different information. Therefore, the quantity and strategy with which lobbyists approach these institutions differ as well. In the following paragraphs, each of these institutions are discussed regarding the relevance for lobbyists and the according strategies.

2.2.1 The European Commission

The European Commission is the main executive body of the European Union. As such, its tasks involve drafting EU legislation, implementing EU laws and enforcing EU law (Hix & Høyland, 2011). The European Commission represent the interests of the European Union (European Commission, n.d.).

In its organisation, the Commission consists of the College of Commissioners, directorate-generals (DGs) and several agencies. The College of Commissioners is the core executive of the Commission. They focus on the political side of the Commission's work. The DGs draft the legislation and quasi-autonomous agencies monitor the implementation of the legislation and manage the regulatory tasks (Hix & Høyland, 2011).

Regarding lobbying, the power of the European Commission to propose legislation is particularly important. In the first phase of legislation, the European Commission will draft a proposal that sets the starting point for the debate. Contrary to the governing system in the United States, where initial proposals can be thrown out, the proposal of the European Commission usually results in a policy (Bouwen, 2009). Although the other European bodies amend this draft before it becomes a regulation, it initiates the starting point of the debate. Therefore, lobbyists aim to influence the legislation process prior to the release of any official policy documents, as changes are more easily made prior to the proposal, as the documents

increase in their formality after it is published and moves up the hierarchy of the Commission (Bouwen, 2009).

Moreover, the European Commission needs to acquire vast political and technical information to draft the proposal. Resulting from a relatively small administration, the European Commission relies on the external resources to provide them with the political and technical information they need. Hence, in the first phase of legislation, the European Commission is open to lobbying groups that can provide them with the information they require (Bouwen, 2002). Prior to publishing a proposal, the Commission can decide to open a public consultation in which individuals and organisation can voice their opinion on potential policy plans. Furthermore, through expert groups and other working groups, the Commission communicates with interest groups that are deemed to have valuable information for the Commission. Whereas the public consultations are open to everybody, the expert and working groups are assembled by the Commission (Hix & Høyland, 2011).

2.2.2 The European Parliament

The European Parliament is one of the EU's legislative bodies and the only EU body that is elected by a democratic vote among EU citizens. However, the European elections mainly involve national issues, which results in the Members of European Parliament (MEPs) not having a strong connection to the European voter. Instead, the MEPs are more strongly linked to their national and European party. Still, the seven European parties that exist in the European Parliament represent their ideology (Hix & Høyland, 2011).

Within the Parliament, committees are assigned to review and amend proposals submitted by the Commission. These committees exist of MEPs that have a renowned reputation within their party. Each committee in Parliament has an assigned rapporteur who drafts legislative reports. Resulting from their central position in amending legislation, rapporteurs are often the target of interest groups to present their ideas. Moreover, the rapporteur needs the advice from interest groups along with advice from other committee members and their own party to pass their amended proposal through the committee and the plenary Parliament hearing (Hix & Høyland, 2011).

2.2.3 The Council of the European Union

The Council of the European Union, also commonly referred to as the Council of Ministers, is another legislative body of the European Union alongside the European Parliament. The members of the Council are the ministers of EU Member States' national governments. Consequently, the Council considers the national interests and particularly, the interest of their domestic voters (Hix & Høyland, 2011).

The Presidency of the Council rotates every six months between Member States. The

new President of the Council gets some agenda-setting power, as a plan for the six-month presidency has to be presented. In this programme, the President gets to list the policies they aim to have adopted. Nevertheless, the Council depends on the Commission to propose legislation. Hence, even though the President of the Council can set the agenda for Council meetings, the extent to which the goals can be achieved is dependent on the willingness of the Commission (Hix & Høyland, 2011).

Within the Council, decisions can be made by two voting principles: unanimity and qualified majority voting (QMV). Unanimity refers to each Member State having one vote and requires every Member State to vote in favour before a decision can be made. Consequently, in unanimity voting, every Member State effectively has a veto power (Hix & Høyland, 2011). The QMV procedure entails 55% of the Member States to vote in favour representing at least 65% of the European population (Raad van de Europese Unie, 2019).

Although the Council's position in the EU decision-making procedure, the Council is lobbied less than the Parliament and the Commission. A reason for this can be the lack of transparency in the Council. Whereas, the Commission and Parliament are known for their openness to accept input from interest groups, the Council is often described as a more closed institution (Hayes-Renshaw, 2009).

Moreover, the fragmentation of the Council contributes to the complexity to lobby. The Council meets in different configurations, each including the relevant ministers of the Member States. As interest groups need to consider multiple aspects relating to the multi-level governance of the EU, the complexity of the Council's organisation might lead to interest groups avoiding the Council to decrease lobbying complexity (Hayes-Renshaw, 2009).

Additionally, the ministers have their responsibilities in the national governments. Usually, they solely travel to Brussels for a meeting and travel back to their Member State as soon as the meeting is finished. Hence, approaching the members of the Council is hard to schedule (Hayes-Renshaw, 2009).

Nevertheless, several interest groups have gained access to the Council. Still, these interest groups are selected by the Council and invited to informal events like dinners. Therefore, finding data in the lobbying activities in the Council is difficult. Furthermore, considering the difficulties in accessing the Council and its members being directly related to national governments, interest groups can decide to lobby the national governments instead (Hayes-Renshaw, 2009).

2.2.4 The ordinary legislative procedure

The ordinary legislative procedure is standard procedure for the decision-making process in the European Union. The procedure was formed after the 2009 Lisbon Treaty and coined the 'co-decision procedure' (EU Monitor, n.d.). The co-decision refers to both the Council and the

European Parliament sharing legislative rights (European Parliament, n.d.). The ordinary legislative procedure consists of three readings and multiple steps in each reading (EU Monitor, n.d.; European Parliament, n.d.). In the following paragraphs, the first reading is explained in detail first, followed by the key differences in the second and third reading.

The first step is the initiating step by the European Commission. In this step, the European Commission publishes a proposal for the Parliament and the Council to read and amend. The Parliament and the Council simultaneously read the proposal (EU Monitor, n.d.). However, the Parliament acts first by either amending or accepting the proposal. This action is decided by a simple majority vote. The simple majority vote entails that a majority of the votes cast wins. Hence, when all 751 Parliament members vote, 376 MEPs have to vote for the proposal to accept it. Although it is possible for the Parliament to reject the entire proposal, the Parliament usually decides to amend it instead (European Parliament, n.d.).

The committees within the European Parliament can suggest amendments to the proposal when the initial proposal is not accepted. The Parliament then votes on whether to adopt the committee's position as the Parliament's official position (European Parliament, n.d.).

The amended proposal then moves to the Council for a vote. When the Council approves the amendments by the European Parliament, the proposal is accepted and put into legislation. The Council can also decide to amend the Parliament's amendments to the proposal. When the Council decides to reject the Parliament's decision and make further amendments, the amended proposal is sent back to the Parliament for a second reading (EU Monitor, n.d.).

The second reading is similar to the first reading in Parliament either rejecting, amending or accepting the Council's proposal. When Parliament amends the proposal, those amendments are voted on in the Council, which can in turn decide to accept or amend the Parliament's position (EU Monitor, n.d.; European Parliament, n.d.).

However, the first and second reading differ in other ways. The main difference between these readings is the time constraint. Whereas the Parliament and the Council do not have any time limits in the first reading, the second reading requires the Council and the Parliament to adopt its position within three months with a possible extension of one month (European Parliament, n.d.) Furthermore, the Parliament has to accept its position by an absolute majority, meaning that every MEPs has to cast their vote (EU Monitor, n.d.).

Moreover, the adopted position of the European Parliament in the second reading is first referred back to the Commission before being sent to the Council. The European Commission reviews the Parliament's amendments and issues an opinion (EU Monitor, n.d.).

Following the opinion of the Commission, the proposal is submitted to the Council. The decision-making procedure in the Council depends on the opinion issued by the Commission. When the Commission has issued a positive opinion, the Council votes by a qualified majority

voting. If the Commission's advice is negative, the decision is based on unanimity in the Council. If the Council accepts the amendments, the proposal is adopted. When the Council rejects the amendments, the third reading starts (EU Monitor, n.d.).

The third reading is the conciliation. In this reading, a conciliation committee is assembled, which includes members of the Commission, Parliament and Council. Within six weeks, negotiations in this committee need to result in adopting a joint text. When negotiations do not result in an adopted text within these six weeks, the proposal is rejected. The adopted text is then submitted to the Parliament and the Council, which both have to vote to either accept or reject the proposal. In the third reading, amendments are not allowed. In this final vote, the Parliament votes according to a majority vote and the Council decides by a qualified majority vote (EU Monitor, n.d.).

2.3 Types of interest groups and models of representation

In interest group literature, there are two main types of interest groups: those representing special and diffused interests (Hix & Høyland, 2011). Special interest organisations represent narrow interest attributed to a specific section (Beyers, Eising & Maloney, 2008). Diffused interest organisations, however, represent interests of society as a whole. Examples of diffuse interest groups are environmentalist groups and trade unions (Hix & Høyland, 2011).

The inclusion of special and diffuse interest groups is discussed in multiple models of interest group representation. These models represent which interest group should be included in the policy-making process and to what extent. The first model is the pluralist model. The pluralist model evolves around the idea that every debate will have interest groups that represent opposing ideas. According to this model, every special interest group will be countered by another diffuse interest groups, which balances the represented ideas. Including all possible sides in a debate in the policy process is done by providing interest groups with open access to policy-makers (Hix & Høyland, 2011; Truman, 1951).

However, the pluralist model requires both sides to the debate to have equal access to policy-makers (Maloney, Jordan & McLaughlin, 1994). This requirement is considered problematic, because specialized interests have a higher incentive and more resources to mobilize compared to diffuse interests. Hence, open access can lead to a dominant representation of business interests while neglecting groups representing societal interests (Hix & Høyland, 2011).

The second model of interest group representation is the corporatist model. The corporatist model addresses the issue of unequal access by granting access to certain groups. In this model, society is viewed to be divided between business and labour. Interest groups representing both business and labour are granted access and take part in meetings. In these meetings, state officials, business groups and labour unions aim to achieve an agreement

which leads to legislation (Hix & Høyland, 2011; Johanssen & Pedersen, 2008; Treib & Falkner, 2009).

The main shortcoming of the corporatist model is the exclusion of other relevant interest groups by focusing on solely business and labour. Consequently, groups representing broader societal issues, like environmental groups, are ignored in the policy process. This is problematic considering business and labour share interests regarding production. Therefore, in a policy issue involving production interests, business and labour can promote their own interest at the expense of societal interests (Hix & Høyland, 2011).

The third model is the neo-pluralist model. This model addresses the issue of unequal access of the pluralist model by stating that state officials should seek out underrepresented societal interests (Johanssen & Pedersen, 2008). Hence, for each policy issue, state officials promote interest groups that represent a specific public interest. This is done by subsidizing and granting access to these groups (Hix & Høyland, 2011).

The neo-pluralist model also has a disadvantage, particularly regarding the granted access and subsidies given to particular groups. These subsidies can result in groups mobilizing solely for the sake of mobilizing to increase subsidies in their field. This motivation to secure subsidies decreases the incentive to effectively represent public interests (Hix & Høyland, 2011).

2.4 Definitions of influence and its determining factors

Influence is a problematic term to effectively conceptualize. Dür and de Bievre (2007) define influence as having control over political outcomes. The political outcome noted in this definition can be expressed in either the official position of public authorities, or in an implemented policy. Following this line of logic, influence is the convergence between the preferences of the interest group and the policy outcome (Dür, 2008a). Another definition of influence is interest groups achieving “the fulfilment of their interests” (Berry, 1979 in Michalowitz, 2007, p. 133). The fulfillment of interests can be linked to Mahoney’s (2007) study on interest group success. Success is measured according to the extent of the interest organisation’s position is reflected in the eventual policy. Both Mahoney (2007), and Dür and de Bievre (2007) indicate that lobbying influence depends on several factors: political system, issue characteristics and interest group characteristics.

Regarding political system, a diffuse interest group acting in a democratic political system should be more successful than diffuse interest groups operating in a political environment that is not dependent on elections. This results from politicians needing support from their constituents. As interest groups possess information on the interest of their constituents, politicians in a democratic system are more likely to consider their views. Furthermore, the rules of the policy process influence lobby success as well. Within the EU,

the Commission, Parliament and Council share legislative power. These three EU bodies have to agree to a policy for it to pass. Hence, EU lobbying calls for compromise. Additionally, the political system determines which resources politicians need. Considering the three main legislative bodies require different resources, the possible influence of interest groups increases (Bouwen, 2002; Dür & de Bievre, 2007; Mahoney, 2007).

The level of the issue determines the success of a lobby group. Mahoney (2007) states that the larger the scope of the issue, the smaller the chance of success. This results from the diversity and quantity of other actors and interest groups whose preferences have to be considered. Especially conflictual issues cause an environment of multiple actors with highly divergent interests decrease the chances of success. Moreover, issues that are highlighted by a focus event can increase the chance of success, depending on the stance of the interest group (Mahoney, 2007). Dür and de Bievre (2007) discuss the technicality of an issue as well. When an issue is more technical, the political actors will seek out the interest group that has relevant expertise.

Michalowitz (2007) adds an extra dimension to the work of Mahoney (2007) and Dür and de Bievre (2007) by including the factor degree of conflict with existing beliefs of EU officials. This factor entails that private actors are more likely to exert influence over decision makers that are already supportive of their view. This is because they expect to be able to exert more influence over like-minded politicians rather than politicians that hold opposing views. The degree of conflict also includes the importance of a focus event but is more focused on the punctuated equilibrium theory. This means that interest groups can effectively influence when a favourable situation arises and all advantageable factors come together. In this logic, the convergent interests of decision-makers and interest group is strengthened by the attention the issue receives resulting from the focus event (Michalowitz, 2007).

Moreover, Michalowitz (2007) identifies two types of influence: directional influence and technical influence. Directional influence refers to the power of agenda-setting and the aim of interest groups to change the core of a legislation. Technical influence entails that interest groups influence the belief system of decision-makers instead of changing a policy outcome.

Although access and influence are not similar, the concepts are related. As access enables groups to participate in EU lobbying, access can be seen as a necessary precondition to exercise influence in the EU (Bouwen, 2002; Binderkrantz & Pedersen, 2017).

Studying access has been used more frequently over the past ten years to measure interest group influence. However, scholars do not agree on what interest group access entails. Some studies view access as frequent and/or direct contact between interest organisations and EU institutions (Eising, 2007a, 2007b; Dür & Mateo, 2013). Binderkrantz and Pedersen (2017) define access 'as present when a group has entered a political arena (parliament, administration, or media) passing a threshold controlled by gatekeepers (politicians, civil

servants, or journalists)' (Binderkrantz & Pedersen, 2017, p. 307). Additionally, access is also related to information. For example, Beyers (2004) defined access as 'the exchange of policy-relevant information with public officials through formal and informal networks' (Beyers, 2004, p.13).

2.5 Non-EU actors entering the lobbying field

In 1996, Harris and Lock noticed the vast increase in corporate lobbying in the United Kingdom during the 1990s. They focused on the United Kingdom, as the lobbying activities in the UK were not yet widely recognized in literature despite its growing impact. Additionally, lobbying in the UK was closely linked to marketing, which was also not widely researched at the time (Harris & Lock, 1996). In their paper, they tried to explain the increase of corporate lobbying. One of the reasons given in their paper is 'the growth of international government is generating substantial legislation affecting businesses. [...] This has brought lobbying at national and European level to ensure business' voice is heard when proposals are being formulated' (Harris & Lock, 1996, p. 314). This view is confirmed by Levitt, Bryceson and van Mierlo (2017), who view the increased interest to lobby the European Union has risen exponentially with the development of the European treaties. Moreover, these authors state that the current lobbying structure was formed by the end of the 1990s (Levitt et al., 2017).

The notion that the growth of international government influences corporate interests to lobby the European Union can be connected to globalisation. Cerny (1995) describes globalisation as 'a set of economic and political structures and processes deriving from the changing character of the goods and assets that comprise the base of the international political economy – in particular, the increasing structural differentiation of those goods and assets' (Cerny, 1995, p. 596). Cerny (1995) suggests that as globalisation increases, the ability of a state, or any legislative authority to effectively develop policy will be increasingly challenged by actors from both inside and outside the state.

Besides Cerny (1995), Rasmussen and Alexandrova (2012) also recognize the growing interests of non-EU actors to get involved in the EU policy-making process as Brussels' competences are growing. In their study, they focused on foreign governments that were involved in the Commission consultations. They found that democratic countries with strong trade links to the EU were more likely to participate in Commission consultations (Rasmussen & Alexandrova, 2012). Bernhagen and Mitchell (2009) highlight that non-EU firms are more likely to directly lobby the EU themselves than EU firms. This results from non-EU firms not having representatives from a national government to safeguard their interests, nor can they argue that they represent EU citizens (Bernhagen & Mitchell, 2009).

Chapter 3: Theoretical framework

This chapter outlines the theories and findings of previous studies on which this thesis is based. The theories that are tested in this thesis are discussed and relevant predictions are formed. These predictions are used later to assess the results following from the data analysis.

3.1 Logic of collective action

The logic of collective action explains why diffuse interest groups have less access to the policy process than groups representing special interests (Hix & Høyland, 2011). Contrary to the pluralist idea that a countervailing power will balance the influence of business interests, the logic of collective action questions whether common actions always follow from common interests (Olson, 1965). Instead, Olson (1965) argues that individuals within a group are more likely to actively represent their interests when this group is relatively small. This results from achieving a common goal will benefit every individual within that group. Therefore, groups representing a common interest for a large population will have more difficulty to mobilize, as it is easier to free-ride on the achievements (Hix & Høyland, 2011; Olson, 1965).

In order to understand the logic of collective action, it is important to outline the purpose of organisations. The logic of collective action assumes that individuals are rational and self-interested people acting to their own interests. Consequently, organisations emerge when a group of individuals share a common interest and need an organisation to advance that interest. Hence, it is assumed that the purpose of an organisation is to advance the interests of its members.

Considering mobilisation requires dedicating time and money to furthering the interests, organisations advocating public interests are less likely to mobilise. This follows from the assumption that individuals are rational and self-interested. A rational, self-interested individual would not put their effort into a cause that benefits all of society. Instead, the logic of collective action assumes that individuals would free-ride on the efforts of others (Olson, 1965; Udehn, 1993). To predict the incentive to mobilise, the value of a collective good to an individual must be larger than the total cost of realising the collective good. Hence, the bigger the group, the more the value per individual of the collective good decreases and the lower the individual incentive is to mobilise. Regarding public interests, everyone, or at least the majority of society, benefits from the collective good. Consequently, it is easier to freeride on others' actions to realise the public good than for special interests (Olson, 1965; Udehn, 1993). Following this argumentation, the following prediction is formulated:

- 1.1 The interest group with special interests is able to organise more effectively in order to exert influence than the interest groups with diffuse interests.

Nevertheless, the interest groups representing public interest can go public to address their concerns. Even though it might be harder for these groups to organise, these groups can put their concerns on the political agenda and influence public opinion through grassroots lobbying. Considering public opinion is valued in both the European Parliament and Council, these diffuse interest groups can still effectively exert influence (Beyers, 2004). Therefore, the following predictions are included:

1.2 Diffuse interest groups are more likely to exert influence by seeking media attention than special interest groups

1.3 Diffuse interest groups are more successful in forming public opinion to exert influence than special interest groups

3.2 Access theory

Similar to the literature on interest group influence, Beyers' (2004) notion of access entailing an exchange of information is related to the importance of resources interest organisation have available. Bouwen's logic of access theory builds on this idea. In this theory, Bouwen (2002) describes the EU lobbying as a process of exchanging resources in an environment of interdependent organisations. In this view, lobbying is not a unidirectional activity from lobbying groups to EU institutions. Instead, private and public actors are involved in a 'series of inter-organisational exchanges' (Bouwen, 2002, p. 7). The private actors contact EU actors to influence the EU policy process. In turn, private actors operate in the environment of EU legislation, and EU actors are interested in their knowledge of and resources in that environment (Bouwen, 2002; Beyers, 2004; Eising, 2007a, 2007b).

Moreover, Bouwen (2002) coined the term 'access goods', referring to goods that are crucial for EU institutions to fulfil their institutional role. He defines three types of access goods: expert knowledge; information about the European encompassing interest (EEI) and; information about the domestic encompassing interest (DEI). Relating this to the definitions of access, the access goods suggest information has a central role in interest group access.

The access good EEI refers to information on the interests of European actors within the EU Internal Market. DEI refers to 'the needs and interests in the domestic market' (Bouwen, 2002, p. 8). The 'encompassing' factor of these two goods means the aggregated interests of parties within the European or domestic market. Hence, the more involved parties reflect a similar interest, the more encompassing that interest is (Bouwen, 2002).

However, solely possessing an access good does not directly lead to access. The extent to which access is granted depends on the ability of lobby groups to provide the appropriate EU institution with the critical resource good. The multi-level structure of the EU

allows for diverse access points. Politicians and public authorities are often aware of the information supplied by resource-rich interest groups is strongly based in the interest group's preference. Therefore, public authorities often seek out diffuse interest groups to complement the information given by specified interest groups (Beyers, 2004).

Moreover, the diversity of tasks between the European Commission, Parliament and Council requires a variety of information as well. Whereas the Commission requires technical information to draft their proposal, the Parliament and the Council are more concerned with information about the interests of their constituents. For the Parliament, this entails European interests and for the Council domestic interests. Building on the framework of supply and demand in the policy process, specified interest groups often provide expert knowledge (Beyers, 2004). Still, information on European interests is required in the Parliament, and the Council is interested in domestic interests on European topics (Beyers, 2004; Bouwen, 2002).

Based on the access theory outlined above, the following predictions are formulated:

2.1 The interest group claiming to have expert knowledge exerts influence in the European Commission.

2.2 The interest group claiming to have knowledge on EEI exerts influence in the European Parliament.

2.3 The interest group claiming to have knowledge on DEI exerts influence in the Council.

3.3 Interest group strategy

In previous literature, two main strands of strategy can be found: insider group strategy or 'access' and outsider group strategy or 'voice' (Beyers, 2004; Binderkrantz, 2005; Dur & Mateo, 2013). The insider group strategy is explained above in Bouwen's theory of access. By gaining access, the interest group can directly influence the decision-makers. Outsider group strategy, however, is more concerned with mobilisation. This strategy entails going public and using the media to change public opinion (Beyers, 2004; Binderkrantz, 2005; Dur & Mateo, 2013). However, it is possible for an interest group to follow insider group strategy first and changing to outsider group strategy later on (Binderkrantz, 2005).

Even though groups may choose to change their strategies accordingly, the interest group type often determines which strategy the group will follow (Dur & Mateo, 2013). As mentioned earlier, the type of interest group entails whether an interest group represents businesses, trade unions, professionals or public interests (Mahoney, 2007).

Especially the resources available and the issue context in which the interest group operates influences whether an interest groups uses an insider or outsider approach. As explained by Bouwen (2002), the interest group with vast resources is likely to gain access

and therefore, follow an insider strategy. A group is also likely to follow an insider strategy when it operates in a distributive policy field. Therefore, business groups are more likely to pursue an insider strategy.

Public interest groups, however, are more likely to employ an outsider strategy to change public opinion (Beyers, 2004; Dür & Mateo, 2013). Public interest groups typically represent diffuse interests, which results in more ambiguity in the interests they represent. Consequently, these groups have more difficulty mobilising constituents and are expected to gain less access. As a result, diffuse interest groups go public to spread the values they represent and gain sympathisers (Beyers, 2004).

Following the logic of insider and outsider group strategy, the following predictions are formulated:

3.1 Diffuse interest groups are more likely to attempt to exert influence on public opinion than to attempt to exert influence on EU officials.

3.2 Special interest groups are more likely to attempt to exert influence on EU officials.

3.4 Interest group characteristics

The characteristics of the interest group itself can also influence the chance of success. Important interest group characteristics are financial resources, membership size and advocate type. Regarding membership size, larger groups have a higher chance of success, as they usually have a higher degree of legitimacy (Dur & De Bievre, 2007; Mahoney, 2007). Advocate type refers to the interest group representing citizens, unions, corporations, or industries.

The importance of the interest group characteristics is also highlighted by Pappi and Henning (1999). Similar to Bouwen (2002), they suggest that the policy network exists of several influence resources: expert knowledge, public support, monitoring information and control of policy decisions. In their view, political actors possess the control of policy decisions, but are willing to trade some of this control in exchange for expert knowledge or public support. These are influence resources mainly held by interest groups. The interest group with the most valuable expert knowledge or the most public support is most likely to influence the policy decision (Pappi & Henning, 1999).

Regarding these characteristics, this thesis predicts the following:

4.1 The interest group with the most financial resources is most likely to exert influence.

4.2 The interest group with the largest membership size is most likely to exert influence.

Chapter 4: EU Copyright Directive

Copyright rules are intended to protect the interests of the original product's creators. Since the last legislation on copyright rules in 2001, the digital landscape in which content is created and shared has changed rapidly. Whereas the 2001 Copyright Directive aimed at harmonising the EU market regarding copyright rules, the Commission discovered a need to modernise this directive to the dynamic digital landscape that exists today (European Commission, 2016a). Following from a wide public consultation conducted by the European Commission including various stakeholders, an initial proposal on a new EU Copyright Directive was released in December 2016, just in the final month of Günther Oettinger's post of Commissioner for Digital Economy and Society (European Commission, 2016b).

Besides modernizing the 2001 Copyright Directive, the Commission had multiple aims. One of these aims was promoting consumer access to a wider set of TV and radio programmes. By creating common legislation on copyright, TV and radio programmes can be broadcasted in multiple countries without going through the complexity of clearing the rights. Moreover, by enhancing the access to TV and radio programmes originating in other Member States, the European Commission aimed at enhancing access of cultural content and promoting cultural diversity (European Commission, 2016a).

Alongside enhancing access to consumers, the proposal for the modernized Copyright Directive aims at enhancing the protection of the legal rightsholders of the content. Especially individual right holders and SMEs are mentioned to benefit from the Directive, as these right holders would not have to negotiate every small license in every country it operates in under the Directive (European Commission, 2016a).

Since the first release in December 2016, the directive has been praised and criticized. Whereas proponents see the many benefits for the protection of the legal right holders, opponents state that the directive will damage the free internet. The main issues surrounded the controversial articles 11 and 13, which were even deemed to be 'the end of the internet' (Rathi, 2018).

In the paragraphs below, the main issues regarding the Copyright Directive are outlined.

4.1 Panorama exception

The panorama exception entails a copyright exception regarding landmarks and public spaces. Resulting from the panorama exception, people can take pictures with landmarks like the Eiffel Tower and upload them to the internet without having to ask permission from the rights holder (Schaake, 2018).

Critics argue that one problem of the panorama exception is that it does not exist in

every European Member State. For example, Germany has incorporated the panorama exception into national law whereas France has not. Consequently, some EU citizens are liable for posting vacation photos with a landmark or street art on it, and other EU citizens can do so freely (Schaake, 2018).

Moreover, critics mention the effects of the current panorama exception on innovation. For instance, the development of cars, especially autonomous cars, requires broadening the panorama exception. Self-driving cars need sufficient information about their surroundings by scanning, saving and sharing information. If the panorama expectation is harmonised, Member States can easily exchange this information and foster the development of these autonomous vehicles (Schaake, 2018).

However, the creative sector fears that extending the panorama exception results in less protection for the artists. In their view, street artists have to be able to live from the revenues of their art. Solely because their art is on the street in public, it should not prohibit these artists from making a living off of it (GESAC, 2015).

4.2 Safe Harbour provision

The Safe Harbour provision was laid down in Article 14 of the 2000 E-commerce Directive. In this directive, the concept of information society service providers (ISSPs) was coined. An information society service provider is defined as 'any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services' (Schaub, 2018, p. 109).

In the 2000 E-commerce Directive, information society service providers are not liable for the information that is stored on their services and uploaded by their users. This article states: 'where an information society is provided that consists of the storage of information provided by a recipient of the service, Member States shall ensure that the service provider is not liable for the information stored at the request of a recipient of the service' (European Parliament and Council of the European Union, 2000, p.13). With this article, the Council and the Parliament recognized the vast amount of content being uploaded daily on ISSPs. For example, YouTube claims that 400 hours of video is uploaded per minute on YouTube (Harris, 2017). In order to spare the burden on ISSPs to go through all the uploaded material, the Parliament and the Council decided that ISSPs were only liable when infringement was reported and did not remove the content (Reed Smith, 2017).

However, when the E-commerce Directive was adopted in 2000, the platforms known today, like YouTube, Facebook and Google News were not yet developed. Still, these online service providers categorize themselves as information society service providers and are thus protected by the Safe Harbour provision (Reed Smith, 2017). The creative sector claims that these platforms exploit the provision to avoid remunerating artists (GESAC, n.d.). Google has

responded by providing a program on which artists can indicate their copyrighted work and decide whether they want to block the content or be remunerated for it. In their view, this 'notice-and-takedown' system works fairly by ensuring artists of their compensation and maintaining the freedom of the internet (Google, 2018).

4.3 Active and passive platforms

In the EU Copyright Directive, the debate emerged on active and passive platforms. An active platform refers to platforms that 'actively select, rank and classify news publications according to their own methods and combine to create new, tailored products' (Höppner, n.d., p.3). Hence, platforms that use and manipulate material produced by a third party to establish relationships with their own customers and increase their own revenue, is considered to be active (Höppner, n.d.).

In contrast to the active platform amending existing material to develop their own product, a passive platform merely has an intermediary role (ITRE & IMCO, 2017). This intermediary role entails a role 'without intervention in the organisation, optimisation or promotion of the content' (ITRE & IMCO, 2017). Hence, passive platforms merely provide users a space to store and display private content and do not have knowledge over the shared information nor do they have control over it. A contemporary example of a passive platform is Wikipedia, which allows users to upload information for non-commercial purposes and does not intermediate in organising the uploaded information. An active platform is Google News, which ranks and orders news articles (European Parliament and European Council, 2000; European Parliament, 2019; Spreafico, 2012).

Consequently, the question emerged whether a distinction should be made between active and passive platforms, resulting in passive platforms being less liable for uploaded copyright protected content than active platforms. The status quo in the previous Copyright Directive, no distinction was made between active and passive platforms. It was debated whether sanctions against active platforms should be increased when the platform contained copyright infringed materials, whereas passive platforms may not be held liable for the possibly copyright infringed material uploaded by its users.

The discussion of active and passive platforms emerged from the Safe Harbour provision. Issues related to this provision have led to multiple court cases before the Court of Justice of the European Union (CJEU). In the rulings of the CJEU, the role of the platform in each case was considered. For example, in a court case against Google by multiple claimants the CJEU made their decision by answering the question whether the 'service provider has not played an active role of such a kind as to give it knowledge of, or control over, the data stored' (CJEU, 2010, p.120). The remuneration received by advertisers for the use of Google's system and the results of Google's search query were not sufficient grounds to hold Google liable in

this case (CJEU, 2010, Reed Smith, 2017).

4.4 Publishers' rights

New publishers' rights, commonly referred as Article 11, is known by defenders as 'neighbouring rights' and among critics as 'the link tax'. It entails the remuneration of the original creators when their work is shared or edited. For instance, news publishers maintain copyright over headlines, which Google News has to pay for in order to share the article (Rathi, 2018). As many people get their news from pages like Google News or Facebook, these tech giants wield power over news publishers. For instance, when Facebook changed their algorithm to show less news articles in the users' Facebook feed, a drop in the traffic to various news sites was caused (Rathi, 2018).

Article 11 is meant to level the playing field between tech giants and publishers in negotiating licenses. Currently, tech giants have the strongest position in negotiations, as their platforms wield an audience for publishers' works and are not bound by legislation to negotiate licenses. However, the effectiveness of this article is dependent on the response of the tech giants. When the Spanish governments launched an article similar to Article 11, Google decided to shut down Google News completely in Spain, which severely dropped traffic to news sites. As the EU is a large area with a high amount of Google users, passing Article 11 on a European level might not lead Google to leave the European market (Rathi, 2018). Multiple lobby associations representing publishing houses have indicated that Article 11 can provide them with leverage to make Google News pay for their content (Corporate Europe Observatory, 2018).

Critics state that Article 11 can result in news publishers signing away their copyright in order to get published on services like Google News. When this happens, Google can favour these news publishers over others. Consequently, news publishers that are not willing to sign away their rights might be driven out of business due to decreasing traffic. As a result, the variety of information available to users decreases. Moreover, as negotiating licenses requires time and money, the big publishers are more likely to negotiate beneficial licenses. This can decrease the chances of a smaller publisher to enter the market (Rathi, 2018).

4.5 Harmonisation among Member States

Harmonisation among Member States refers to the differences and limits between national laws among European Member States. This issue touches upon several matters. For instance, it is related to the panorama exception, as some Member States transposed this exception into national law and some Member States did not. Hence, some European citizens have the right to post pictures of landmarks and other European citizens do not.

Additionally, the issue harmonisation related to the Copyright Directive also discusses accessibility. Mainly accessibility of museum archives and research institutes across borders, but also of literary, musical and visual works. Whereas proponents for increasing harmonisation argue that it fosters European integration by providing access to cultural heritage of other EU Member States, opponents state that it limits authors' control of their work. Additionally, opponents argue that no Internal Market problem exists within the EU. (BEUC & Digital Europe, 2015; BEUC, 2016; GESAC, 2016).

4.6 Content recognition technology

Content recognition technology, commonly referred to as Article 13, requires websites posting user-generated content, like YouTube, to scan every upload for intellectual property violations (Rathi, 2018). Creators have praised Article 13 for preventing unlicensed use of their content and ensures remuneration for creators when their work is used. Article 13 would protect creators from piracy and exploitation of their work (Livni, 2018).

Opponents of Article 13 state that the software that would be used for scanning the content on breaches of intellectual property is expensive and not accurate enough. Furthermore, this article would heavily impact consumers that share content in compliance with the copyright exceptions, which are ignored in Article 13. Also, consumers aiming to contribute to collaboration platforms, like Wikipedia, or to computer code are restricted from doing so. Consequently, the sharing of knowledge and enhancing creation on the free internet can be decreased (Livni, 2018).

Chapter 5: Research design

In the upcoming sections, the research design is outlined. Section 5.1 shows why a case study design is most appropriate for this thesis, followed by the complications of and possibilities in measuring influence. In the final section in this chapter, the data collection and the operationalization are outlined.

5.1 Case study design

This thesis follows a congruence analysis to answer the research question. A congruence analysis is 'a small-N research design in which the researcher uses case studies to provide empirical evidence for the explanatory relevance or relative strength of one theoretical approach in comparison to other theoretical approaches' (Blatter & Haverland, 2012, p. 144). This analysis is appropriate for this thesis for several reasons. First, this thesis uses the EU Copyright Directive as a case study from which it derives empirical evidence. Second, the research question of this thesis is directed towards establishing which theory is most relevant to explain the lobbying influence in the EU Copyright Directive. Third, this thesis involves a small N of only three interest groups. The congruence analysis approach has several benefits. First, it helps to answer 'why' and 'how' questions. Second, it provides for an in-depth analysis of the case. Third, it allows the inclusion of multiple sources of evidence. These benefits allow for a diverse set of observations and increases the ability to 'reflect intensively on the relationship between empirical observation and abstract concepts' (Blatter & Haverland, 2012, p. 144).

Even though a case study design is well-suited for in-depth analysis, there are some disadvantages that should be noted. The main disadvantage is the difficulty to generalize the finding of a case study to a larger population (Tellis, 1997). Another disadvantage regarding case study designs is the subjectivity of the researcher. This disadvantage can be overcome by using multiple sources of evidence (Tellis, 1997).

5.2 Measuring influence

To measure influence, Dür (2008b) has outlined three approaches: process-tracing, attributed influence and degree of preference attainment. In the following paragraphs, each of the advantages and shortcomings of these approaches are discussed respectively.

First, the most frequently used method is discussed: process-tracing. Process-tracing entails studying the causal process between the independent and dependent variables. Hence, with process-tracing studies influence over multiple stages in the policy cycle. In order to conduct the process-tracing methods, data needs to be gathered on the interest group's preferences, their attempts to exert influence, their access to decision-makers, the responses

of decision-makers to interest group's influence attempts, the extent to which the preferences of the interest groups are represented in the outcome and the degree of (dis)satisfaction with the outcome from statements of interest groups (Dür, 2008b).

Process-tracing has multiple advantages when it is carried out well. The main strength of process-tracing is its ability to identify rival explanations or explanations that cannot be derived from solely analysing documents. Reasons for this ability is the availability of data on all influencing factors in small *N*-studies (Dür, 2008b).

However, some methodological problems should be considered when using process-tracing. One problem occurs when there is not enough data available to complete the causal chain, which can lead to an oversimplification or underestimation of the interest groups' influence. Furthermore, process-tracing relies heavily on statements and papers produced by interest groups, making these claims not reliable. Additionally, assessing the degree of influence is difficult in process-tracing as there is not one standard measurement for influence. Finally, process-tracing can only be used in small *N*-studies, making its results hard to generalize (Dür, 2008b).

Second, the attribution of influence method assesses the extent to which interest groups perceive to have influenced the policy process and outcome. This assessment is done by distributing surveys among interest groups. The main advantage of this method is the relative simplicity. Dür (2008b) believes that designing a survey and ensuring a sufficient response rate is relatively simple compared to the exploitation of multiple channels in the process-tracing method. Furthermore, as representatives of interest groups answer the questions directly, the attributed influence method is more likely to capture the levels of influence (Dür, 2008b).

Nevertheless, attributing influence has its drawbacks. The self-assessment of the interest groups can result in a misrepresentation. Therefore, the surveys can be filled in strategically and the results may be biased. The possible inaccuracy of the results complicates assessing the actual influence of an interest group (Dür, 2008b).

Third, the degree of preference attainment, or success, measures to what extent interests are reflected in the policy outcome. Using this method, the ideal point of the interest group is identified, followed by an assessment of the distance between this ideal point and the actual policy outcome. In order to assess the influence exerted by interest groups, the initial proposal by the European Commission as used as starting point and compared to the ideal position of interest groups in press statements and position papers. To measure the influence of the interest group, the final policy outcome is compared to the initial proposal and whether the outcome converged towards or diverged from the ideal position (Dür, 2008b).

Measuring the degree of preference attainment has multiple advantages. One of these advantages is the ability to measure lobbying efforts that are not published and cannot be

noted from other documents. Additionally, this approach can be used for larger studies, which makes the results more generalizable than process-tracing. Another advantage is that the degree of influence can be detected instead of solely a conclusion on whether influence has been exerted or not (Dür, 2008b).

One disadvantage of the preference attainment method is the difficulty to control for other influential factors that may have led the outcome to converge to the ideal point. Furthermore, this approach only considers the initial proposal and the policy outcome. Therefore, it ignores the lobbying process prior to the European Commission's proposal and it cannot determine through which channel the interest group gained influence (Dür, 2008b).

Besides these three main approaches, some studies have used a combination of these approaches, which Dür (2008b) names 'methodological triangulation'. As these approaches differ in their strengths and shortcomings, combining them might balance out the shortcomings. Arts and Verschuren (1999) suggested the EAR-method. The EAR method combines process-tracing with attributed influence by using ego-perception (E), alter-perception (A) and researcher's analysis (R), the assessment of an interest group's attribution is done by measuring the group X's own perception of attribution, the perception of group X attribution of other relevant stakeholders in the case. These perceptions are then checked by the researcher on basis of goal-achievement, intervention and anticipation (Arts & Verschuren, 1999).

This thesis will conduct a combination of the process-tracing method and the degree of preference attainment approach. Process-tracing allows for a detailed approach of the lobbying process and ensures that rival explanations are identified. However, this approach can solely establish the actions to exert influence and the responses to it. To measure influence, the preference attainment method is used. This measure complements the process-tracing method by analysing the extent to which the policy outcome was influenced by the interest group. This results from the preference attainment method allowing for preferences to be completely or partially attained. Hence, whereas process-tracing is a method to reflect whether influence was exerted, preference attainment can measure to what extent.

Moreover, these two approaches suit the resources available for this thesis. Considering the difficulty to obtain sufficient responses to the surveys needed to be distributed in the attributed influence approach, this approach would be difficult to realize. Focussing on document analysis was feasible for this thesis considering the time and data constraints. Additionally, document analysis is a central part of process-tracing and preference attainment.

5.3 Data and operationalization

According to Yin (2018), case studies can include the following sources of data: documentation, archival records, interviews, physical artifacts, direct observations and participant observation. This thesis mainly uses documentation and archival records as

sources of evidence. For each prediction and unit of analysis, different sources of evidence were collected. In the following paragraphs, the operationalization of each prediction is outlined.

In the following paragraphs, the operationalization of the predictions is outlined. This is done by going through each prediction separately and indicate what data was used to confirm or not confirm the prediction.

Firstly, for multiple predictions it is necessary to establish exerted influence. To determine influence, the preference attainment method was used. This method compares the preferences of each interest groups with the outcomes of the final Directive and adopted position of the European institutions. Furthermore, multiple predictions differentiate between diffuse and special interest groups. In table 1 below, the operationalization of these two variables is outlined.

Table 1: Operationalization of general variables

Variable	Data type	Data source	Operationalization
Type of interest group	Publication	Website of the interest groups	Whether the interest group identifies as a diffuse or a special interest group.
Influence	Final Directive, press releases, open letters, position papers	Websites of the interest groups, Eur-Lex	Number of attained preferences in the final Directive.

The predictions formulated based on the logic of collective action include the variables mobilisation, media attention and public opinion. In order to assess to what extent an interest group was able to mobilise, the organised events and actions were gathered. This was done by collecting press releases and blogs from the press pages of the interest groups' websites. To assess the extent to which an interest group sought media attention, it was investigated whether the interest groups published articles on Politico, Euractiv and national newspapers. Additionally, their social media presence was assessed. Unfortunately, no survey could be found on Eurobarometer regarding copyright-related matters. Therefore, the variable public opinion was measured in the support outed by the public for the arguments of the interest groups. This was measured by likes and shares of social media posts and petitions. In table 2 below, the operationalization of the predictions related to the logic of collective action are outlined.

Table 2: Operationalization variables included in logic of collective action predictions

Variable	Data type	Data source	Operationalization
Ability to organise	Press releases, blogs, posts, references	Newsrooms of the interest groups, Twitter pages	Whether and how many events and actions were organised.
Seek media attention	Press releases, blogs, references, accounts	Websites of the interest groups, Politico, Euractiv, Twitter, involvement in external publications	Whether the interest groups published articles on Politico, Euractiv, national newspapers or other outlets.
Form public opinion	Social media posts, survey results	Twitter pages, websites of the interest groups	Likes and shares social media posts, number of signatures on petitions.

The predictions related to access theory discuss access goods. In the first prediction, expert knowledge is expected to increase influence in the Commission. In order to assess the expert knowledge multiple data sources were used. First, the responses to the public consultation of the Commission. In this public consultation, it was assessed how many times interest groups emphasized their experiences and derived practical arguments from that experience, alongside their membership size and the demographics of their members. Second, the inclusion of the interest groups in expert groups and other working groups of the Commission were considered in assessing expert knowledge as well. Moreover, letters sent to the Commission were analysed along similar lines as the public consultation responses.

The second prediction on access theory states that the interest group with most knowledge on European encompassing interests exerts influence in the European Parliament. To analyse knowledge on European interests, the extent to which an interest group stated the interests of European citizens either through stating the impacts of the Directive on the daily lives of EU citizens, surveys or simply mentioning citizens in their argument.

The third prediction concerns knowledge on DEI to influence the Council. The knowledge on national interests was assessed by the surveys the interest groups conducted in several Member States. Mainly, it was established whether they used survey results that showed that actors in Member States were supportive of their interests. In table 3 below, the operationalization of the variables included in the predictions related to access theory are outlined.

Table 3: Operationalization variables included in access theory predictions

Variable	Data type	Data source	Operationalization
Expert knowledge	Public consultations, number of expert and working groups, open letters, press releases, position papers	Websites interest groups, European Commission website (ec.europa.eu)	How many times interest groups emphasized their experiences, used practical arguments based on that experience, the inclusion in expert groups and other working groups.
Influence Commission	Number of expert and working groups interest groups are member to, Commission proposal	European Commission website	Number of attained preferences in the proposal.
EEl	Open letters, press releases, petitions, position papers, blogs, survey results	Websites of the interest groups.	The extent to which an interest group stated the interest of European citizens either through stating the impacts of the Directive on the daily lives of EU citizens, surveys or simply mentioning citizens in their argument.
Influence EP	EP passes, EP's adopted position	Website of the European Parliament (europarl.europa.eu), lobbyfacts.eu	Number of attained preferences in the Parliament's adopted position.
DEI	Open letters, press releases, position papers, survey results	Websites of the interest groups	Whether they used survey results that supported their interests and was conducted in Member States.
Influence Council	Adopted position Council	Website of the Council of the European Union (consillium.europa.eu)	Number of attained preferences in the Council's adopted position.

Regarding interest group strategy, the attempts to influence either the public or EU officials are included in the predictions. Whether an interest group has attempted to exert influence on the public is measured by the amount of articles they have published in news outlets other than their own website and are more accessible to the public. Additionally, it was investigated whether an event was hosted that was open to the public. The extent to which an interest group attempted to influence EU officials was assessed by measuring the number of open letters that were sent to EU officials, responses to public consultations, the number of expert and working groups the interest groups were member to and the number of passes to Parliament the interest groups possess.

Table 4: Operationalization variables included in interest group strategy predictions

Variable	Data type	Data source	Operationalization
Attempts to influence public	Websites, blogs, social media activity, references to external publications	Twitter pages, websites of the interest groups	Whether interest groups have published in news outlets more accessible to the public, organised events that involved public
Attempts to influence EU officials.	Public consultations, expert and working groups, open letters, EP passes	Websites of the interest groups, European Commission, lobbyfacts.eu	How many open letters they have sent to EU officials, whether they responded to the public consultation, whether they were member to a working group or possessed passes to Parliament.

Regarding interest group characteristics, three main traits of the interest group are expected to lead to influence: financial resources, membership size and advocate type (Beyers, 2004). To measure financial resources, the yearly lobbying expenditure of each interest group is gathered from lobbyfacts.eu (www.lobbyfacts.eu). Unfortunately, the expenditure on only the Copyright Directive was not found, but the overall lobbying expenditure provides an insight in the financial capabilities of the interest groups.

Membership size is measured in number of members that the interest group consists of. This data is gathered from the information on the interest groups' website alongside the mentions of the membership size in public consultation, statements and open letters.

Table 5: Operationalization variables included in interest group characteristics predictions.

Variable	Data type	Data source	Operationalization
Financial resources	Yearly expenditure	Lobbyfacts.eu	The yearly lobbying expenditure of each interest group.
Membership size	Public consultation, press releases, open letters, position papers	European Commission, websites interest groups.	Number of members the interest group exists of.

Chapter 6: Data analysis

The process-tracing method identifies the causal processes. According to Dür (2008b), process-tracing is conducted along multiple steps. The first step in process-tracing is identifying the relevant interest groups. The second step is to determine each group’s preferences. The third step entails the influence attempts by the interest groups, followed by the response of decision-makers to the interest groups’ attempts to influence. Then, the final directive is used to determine the outcomes and to what extent the groups’ preferences are reflected in the final outcome. Finally, the last step of process-tracing includes statements of the interest groups and determining their (dis)satisfaction with the outcome (Dür, 2008b).

Furthermore, the process-tracing method requires a timeline of the decision-making procedure of the Copyright Directive. This timeline, as shown in table 6 below, outlined the key events in the decision-making procedure. These key events are needed to categorise the data in order to determine how the interest groups approached the European institutions. This is especially helpful in answering the predictions regarding the access theory, which state that interest groups portray themselves and the knowledge they possess differently based on the EU institutions they are lobbying. A note that should be made concerning this timeline is the discussion in the Council. Even though the timeline states that these discussions started in September 2016, it should be noted that these discussions have proceeded until the final approval of the Directive in April 2019 (EUR-Lex, n.d.).

Table 6: Time line of the decision-making procedure for the EU Copyright Directive

2015	May	Announcement of Commission’s upcoming proposals in Digital Single Market in 2016
2016	March-June	Public consultations to the Commission
	September	Commission publishes first proposal, start discussions in the Council
	October	Committee referral announced in Parliament, first reading
2017	January	Referral to associated committees announced in Parliament
2018	June	Vote in committee, interinstitutional negotiations with report adopted in committee
	September	Debate in Parliament, decision by Parliament

2019	February	Triilogue meetings, Committee approves text agreed at interinstitutional negotiations
	March	Text approved by Parliament
	April	Text approved by Council, signing of the Directive

(Based on EUR-Lex, n.d. and EP Legislative Observatory, n.d.).

6.1 Interest group selection

As outlined by Dür (2008b), the process-tracing method starts with identifying the relevant interest groups. The case study conducted in this thesis includes three interest groups involved in lobbying the Copyright Directive. To select relevant interest groups, the relevant American tech companies were assessed first. Multiple sources were used to uncover these companies. First, the list of responding organisations to the European Commission's public consultations was examined. In this list, Google, Microsoft and Mozilla were registered as American companies. However, both Mozilla and Microsoft have not published more than one press release on the European Copyright Directive. The lack of data on these organisations would result in an inability to determine their preferences. Therefore, Mozilla and Microsoft were excluded from this thesis. Nevertheless, Google responded to the public consultation, had about ten press releases in their own newsroom and also used YouTube and other blogs to spread their message. Hence, there was sufficient available data on Google's preferences and activities concerning the EU Copyright Directive.

Based on an analysis of other active interest groups in lobbying the EU Copyright Directive, two other interest groups were selected. One of these interest groups had to be an interest group representing special interests with an opposing view to Google. Considering the scope of the Copyright Directive, this would be an interest group representing the views of the creative sector. In order to select relevant interest groups representing artists, multiple sources were used. One of these sources is the record of meetings held with the European Commission. This record was retrieved from the Corporate Europe Observatory, an organisation which discusses lobbying topics in the European Union. The list of Commission meetings is derived from the European Transparency Register (Corporate Europe Observatory, 2018). This list of meetings was then compared to the mention of these interest groups in Politico EU articles dating back to September 7th, 2015, when the first article concerning the Copyright Directive was published (politico.eu). This resulted in the identification of six interest groups: EMMA, ENPA, IFPI, GESAC, SAA and SACEM. EMMA and ENPA both represent publishers, albeit EMMA for magazine publishers and ENPA for news publishers. IFPI

represent the interests of the phonographic industry, SAA represents audiovisual authors and SACEM is concerned with musical authors, composers and editors. All these interest groups had responded to the Commission's public consultation and had published many press releases concerning the Copyright Directive. However, after more thorough analysis it became evident that many of these interest groups had released joint press releases with each other. For example, EMMA and ENPA publish barely any individual article apart from each other. Besides EMMA and ENPA, SAA, IFPI and SACEM had released many press releases with GESAC. Due to time constraints for this thesis and the multitude of data available on these interest groups, the choice to only include GESAC in this study was made.

GESAC is an umbrella organisation representing 33 authors' and composers' societies. Moreover, GESAC is a co-signing organisation to the most joint press releases of the artistic sector, alongside most of the other relevant interest groups. Including all six relevant interest groups identified above increased the difficulty of distinguishing between their preferences. Differentiation between the preferences of the relevant interest groups representing artists concerned a very detailed approach and analysing the language of the Directive rather than analysing the content. However, GESAC was very clear in its preferences and solely including this interest group allowed for effectively outlining specific issues in the Copyright Directive. As GESAC represent a multitude of societies and is in contact with other relevant interest groups, this interest group was included in this thesis.

The final type of interest group necessary for this thesis, was an interest group representing diffuse interest. This interest group was selected in a similar approach as GESAC. The response of the Commission's public consultation, the mentions on Politico and the number of Commission meetings considered. From this approach, the consumer group BEUC was selected. BEUC was the only diffuse interest group that was among the twenty organisations with the most Commission meetings, were mentioned multiple times on Politico and had responded to the Commission's public consultation.

In short, this thesis includes three interest groups:

- Google
- Groupement Européen des Sociétés d'Auteurs et Compositeurs (GESAC)
- Bureau Européen des Unions de Consommateurs (BEUC)

6.2 Interest group preferences

The second step in process-tracing is determining the preferences of the abovementioned interest groups. To do this, initial responses to the announcement of the Copyright Directive, responses to the first legislative proposal, and public consultations to the Commission are analysed. The Commission conducted two surveys regarding the copyright directive. One of

these surveys discussed a new publishers' right, in which the impacts of introducing a neighbouring right and a right for publishers was assessed. The other survey concerned the panorama exception and extending copyright exceptions to other areas of copyright.

From this analysis, the main differences between the interest groups were identified and were put into tables stating the main issues over which the interest groups attempted to exert influence. To conduct the preference attainment method, these preferences are compared to the outcome of the final directive, which is the fifth step in process-tracing (Dür, 2008b). In the following paragraphs, each interest group is discussed and their respective interests.

6.2.1 Google

Google has become a household name through its popular search engine. However, Google as a company is a lot broader than solely the search engine. Google has created its own platforms and expanded its brand covering all sectors of the creative industry, most notably YouTube, Google News, Google Images and Google Play. Especially YouTube is popular in Europe, with 183 million European users per month. Google News provides users with access to articles from different sources, from newspaper to magazines (Ecorys, 2015).

Google responded to the Commission's public consultation regarding the new publishers' right. In this consultation, Google put forward the values of an equal internet and the access to diverse information. Regarding the neighbouring right, Google explained that such a right would have a negative impact on any party involved. This is mainly due to Google's belief that such a right would solely benefit big publishers. This results from online services, like Google News, to have to negotiate new contracts in order to distribute the products of the publishers on their service (Google, 2016b). Consequently, Google predicts small news publishers will disappear, as they will lack the ability to negotiate contracts with online services and traffic to their website will drop significantly (Gingras, 2018).

Similarly, Google opposes the introduction of a publishers' right. According to Google, publishers already have the opportunity to ensure their own revenue through employment contracts, transfer of right and national statute laws. As these rights are effective, introducing a new publishers' right would solely increase difficulty in negotiating contracts and lead to the abovementioned problems of solely benefitting big publishers (Google, 2016b; Gringas, 2018).

Moreover, during the lobbying of the Copyright Directive, Google published articles and reports in their newsroom regarding their voluntary efforts to protect and foster the creative industry. In their report 'How Google Fights Piracy' for example, Google carefully outlines all the ways in which the tech company has contributed to protecting copyright online. The most notorious effort by Google is YouTube's Content ID, which is a program that scans the uploaded content prior to posting it. When the content includes copyrighted material, the rights

holder is notified and can decide whether to track, block or monetize the content. Hence, Content ID is a program similar to the upload filter that is requested by the creative sector. However, Google spent nine years and 60 million dollars to develop the program, indicating the expenditure of introducing the upload filter (Atkinson, 2016; Google, 2018). Resulting from the costs coming along with creating such a program that are too high for smaller companies to bare, Google is strongly against putting a mandatory upload filter into legislation.

Furthermore, Google portrays itself as a cooperative company. In their reports, they emphasize the many partnerships they have with both governmental parties and actors from the content industry. For example, in their response to the first proposal of the Commission, Google stated: “Innovation and partnership – not subsidies and onerous restrictions – are the key to a successful, diverse and sustainable news sector in the EU, and Google is committed to playing its part” (Atkinson, 2016, p.9). Hence, Google aims to portray themselves as a voluntary, constructive partner, instead of a company that needs regulation.

In table 7 below, the preferences of Google are presented.

6.2.2 Groupement Européen des Sociétés d'Auteurs et Compositeurs

The European Grouping of Societies of Authors and Composers (GESAC) is a grouping of 33 authors' societies in the European Union, Norway, Switzerland and Iceland. Consequently, GESAC represents over 1 million creators in all artistic fields (GESAC, 2016a). Furthermore, GESAC represents collective management organisations (CMOs). These organisations currently play a dominant role in managing contracts between several rights holders to a product and ensuring each rights holder is remunerated according to these contracts. Currently, CMOs are dominant in organising the rights among the rights holders.

The important role of CMOs in GESAC is evident in their response to the public consultation concerning publishers' rights of the European Commission. In this response, GESAC indicates that introducing a neighbouring right and publishers' rights would have a negative impact on right holders other than authors. They state that this negative impact results from the current central of CMOs in distributing royalties. When introducing a new neighbouring right, GESAC noted that this new right would make the role of CMOs significantly more difficult. However, GESAC does support the introduction of a new publishers' right. Their support mainly stems from the increased opportunities for publishers to negotiate a fair deal with online service providers. Nevertheless, GESAC states that the role of CMOs is crucial in managing the new contracts (GESAC, 2016a).

Moreover, GESAC argues that the competitiveness between several platforms is currently damaging the artistic sector. From their perspective, platform services should follow the same agreements as streaming services like Spotify and Netflix, which do remunerate creators of the products they stream. However, these platforms have significantly less users

than free services like YouTube. Hence, ensuring platforms can only provide products for which licensing agreements have been signed levels the playing field for both artists and online platforms (GESAC, 2016a).

In short, GESAC aims for equal treatment of all involved rights holders and wants platform services to pay for the products they distribute. In table 7 below, the preferences from GESAC are presented.

6.2.3 Bureau Européen des Unions de Consommateurs

The European Consumer Organisation (BEUC) is the umbrella group of 45 national consumer organisations from 32 European countries including all 28 EU Member States. The remaining four countries are Switzerland, Malta, Norway and North Macedonia. As BEUC, they are active in Brussels and are active in EU developments that can potentially affect European consumers. BEUC is especially active in the areas Financial Services, Food, Digital Rights, Consumer Rights and Enforcement, and Sustainability. These areas are focused on, as they are prioritized by the national consumer organisations (BEUC, n.d.). Their mission is to support consumers through competitive market, but ensuring the products in the market are safe and do not put current and future European consumers at risk (BEUC, n.d.).

Regarding the Copyright Directive, BEUC has multiple values and strong preferences that are recurrent in their press releases, statements and responses. These values are: freedom of expression, consumer rights, media pluralism and accessibility of information. In lobbying the Copyright Directive, BEUC was most spoken out about their preference to create a mandatory exception for user-generated content regarding the upload filter that was discussed in Article 13 (e.g. Da Silva, 2018; Pachl, 2019).

Table 7: Preferences of the interest groups

Preference	Google	GESAC	BEUC
1. Panorama exception	Extending and harmonising the (panorama) exception on EU level.	Against extending the (panorama) exception, EU should especially not define 'commercial' and 'non-commercial' works.	To extend the panorama exception
2. Safe Harbour provision	Maintain 'Safe Harbour' provision.	To abolish the 'Safe Harbour' provision for both 'passive' and 'active' platforms.	To maintain the 'Safe Harbour' provision at least for 'passive' UUC platforms.
3. Differentiation between active and passive platforms	To not differentiate between 'active' and 'passive' platforms.	To not introduce a copyright exception for user-generated content, nor differentiate between 'active' and 'passive' platforms.	Introduce a compulsory copyright exception for user-generated content. Hence, differentiate between 'active' and 'passive' platforms.
4. Publishers' rights	To not introduce a neighbouring right or extend contractual agreements.	Introduce a neighbouring right contracted through CMOs.	To not introduce a neighbouring right.
5. Harmonisation among Member States		Rules on copyright should not be further harmonised among EU Member States.	Harmonise copyright rules completely across Member States.
6. Content recognition technology	Content recognition technology should not be mandatory by legislation, the notice-and-takedown regime should be refined instead.	Introduce mandatory content recognition technology.	Not introduce content recognition technology.

6.3 Attempts to influence

The third step in process-tracing involves assessing the attempts made by the interest group to influence the EU legislative bodies. In the following paragraphs, the attempts to influence

by the interest groups is discussed for each EU institution separately.

6.3.1 Influencing the European Commission

Lobbying the European Commission started prior to the release of the first proposal. This is particularly evident in the lobbying efforts of GESAC and BEUC, who wrote multiple open letters to the European Commission conveying their view on the renewal of copyright rules (e.g. BEUC & DigitalEurope, 2015; GESAC, 2016b). However, Google did not directly lobby or respond to the Commission's first efforts in drafting the proposal. Instead, Google published several blogs and reports indicating their self-regulating character in fostering the creative industry (e.g. Google, 2016a).

Additionally, the language with which the interest groups approached the European Commission are both similar and different. GESAC and BEUC are similar in their approach by stating their support of reviewing copyright rules to work effectively in the current digital landscape of new online platforms. For example, in a letter sent to the Commission in April 2016, after the announcement of a possible new Copyright Directive, BEUC stated: 'We all underline that current EU legislation fails to deliver a framework that incentives creativity, research and innovation in Europe. Therefore we welcome the European Commission's determination to modernise EU copyright laws' (BEUC et al., 2016, p.1).

GESAC and BEUC differ in their approach concerning the portrayal of their own organisation. GESAC puts forward their experience in the creative industry, by stating their representation of multiple authors' and composers' societies and collective management organisations. Additionally, they mention that they see particular problems arising and argue this with an example. BEUC emphasizes their representation of European citizens (BEUC, 2016; GESAC, 2016a). The impact on the daily lives of European citizens is the main focus in BEUC's message.

Furthermore, BEUC and GESAC were both straightforward in expressing their opinion on what the new Copyright Directive should address. Both BEUC and GESAC sent an open letter stating multiple aspects in the current copyright rules that they view problematic (BEUC, 2015; GESAC, 2015).

However, Google differs from GESAC and BEUC. Instead of sending direct letters to the European Commission, Google published their efforts to fight copyright infringement and piracy on their own blogs. Also, Google presented their values of free internet, access to information, innovation, cooperation and creativity instead of directly stating what their preferences were (Google, 2016a, 2016b).

Nevertheless, open letters are not the sole option to influence the European Commission. Instead, the European Commission offers influence opportunities through public consultations and expert groups. In table 8 below, the involvement of the interest groups in

these activities by the European Commission are outlined.

Table 8: Lobbying activities in the European Commission

Commission			
Activity	Google	GESAC	BEUC
Public consultation	x	x	x
Expert group	x		x
Meeting DG Digital Single Market	x	x	x
Letters sent to Commissioners		x	x

6.3.2 Influencing the European Parliament

Similar to the European Commission, the Parliament can be influenced through formal channels. Whereas the Commission allows for access through its consultations and working groups, the Parliament can be accessed by passes to the Parliament. The Parliament can also be accessed through informal ways, like events. All three interest groups possess passes to access the Parliament, with which the interest groups can approach relevant parties and people. Moreover, within the Parliament, interest groups can access the rapporteurs and committees concerned with the Copyright Directive directly (Bouwen, 2002).

Regarding GESAC, the Parliament was attempted to be influenced through multiple open letters, of which the majority was co-signed by other interest groups representing rights holder of the creative industry . Additionally, GESAC organised multiple events, like the ‘Meet the Authors’ event, during which MEPs were invited to open the dialogue with authors from multiple sectors about the Copyright Directive (GESAC, 2017). Also, authors and representatives from GESAC and its members travelled to Brussels to meet with MEPs (CISAC & GESAC, 2017). Furthermore, GESAC has actively sought out rapporteur Axel Voss.

As will become clear in the following chapter, BEUC has the most passes accessing the European Parliament out of the three interest groups. Moreover, BEUC has sent most open letters to several European parties. Similar to GESAC, BEUC wrote letters to the committees working on the Directive as well.

Similar to its approach to the European Commission, Google mainly stated its efforts to reduce copyright infringement and to voluntarily regulate itself. Articles echoing this message were published in Google’s newsroom and were directed towards users of Google, stakeholders and other interested parties. In table 9 below, the activities in the European Parliament are outlined.

Table 9: Lobbying activities in the European Parliament

Parliament			
Activity	Google	GESAC	BEUC
European Parliament passes	x	x	x
Letters sent to rapporteur Axel Voss		x	x
Events hosting MEPs		x	
Letters sent to parties		x	x
Letters sent to JURI committee		x	x
Letters sent to IMCO committee	x		x
Letters sent to LIBE committee	x		x
Letters sent to CULT committee		x	x

6.3.3 Influencing the Council of the European Union

The activities in the Council are less evident than in the Commission and the Parliament. For this institution, there are not clear access points or other mechanisms that can indicate influence attempts in the Council. Therefore, to determine lobbying efforts in the Council, letters directed to and press releases mentioning the Council were analysed. Nevertheless, the attitude with which the interest groups approach the Council were quite similar to the behaviour and strategy expressed by the interest groups in the Commission and Parliament.

GESAC and BEUC were similar in their measures to contact the Council, namely predominantly through letters and press releases. As in the Commission, the two interest groups differ in their language, which is dependent on their preferences. As seen in the preferences of both interest groups, GESAC does not want copyright rules to be harmonised across Member States and supports contracts that are valid in only one Member State. Hence, GESAC highlights the central role of each individual Member State in the Copyright Directive and emphasizes the sovereignty of the Member State (GESAC, IMPALA, IFPI & ICMP, 2017).

Contrary to GESAC’s approach to the individual Member States, BEUC considers the EU to be one entity. BEUC strongly supported harmonisation of copyright rules among Member States, to ensure citizens can enjoy the liberties they are accustomed to in their home country when travelling to another EU Member State. This results in BEUC approaching the Council valuing European integration and harmonisation (Oliveira da Silva, 2019).

Similar to Google’s behaviour in the European Parliament and Commission, Google

was not particularly active in directly lobbying the EU institutions. Instead, Google posted blog articles to inform their readers of Google’s efforts to reduce copyright infringement.

Table 10: Lobbying activities in the European Union legislative bodies

Activity	Google	GESAC	BEUC
Commission			
Public consultation	x	x	x
Expert group	x		x
Meeting DG CONNECT	x	x	x
Open letters to Commissioners		x	x
Parliament			
European Parliament passes	x	x	x
Letters to Rapporteur Axel Voss		x	x
Events hosting MEPs		x	
Letters sent to parties		x	x
Letters to JURI committee		x	x
Letters to IMCO committee	x		x
Letters to LIBE committee	x		x
Letters to CULT committee		x	x
Council			
Letters sent to Council		x	x

6.3.4 Influencing public opinion

As outlined in chapters 2 and 3, interest groups can exert influence on the EU policy-making process by influencing public opinion. This is especially important in grassroots lobbying. As the public opinion is an important route to influence EU policies (Mihut, 2008). Influencing public opinion can be done in several ways, for example through blog posts, articles in newspapers or magazines or hosting an event open to the public. The interest groups had different degrees to which they attempted to influence public opinion. From the three interest

groups, BEUC discussed the interest of the European citizens the most. However, BEUC did not actively attempt to influence the opinion of the European citizen. This is seen by BEUC not publishing any articles outside their website, which is filled with updates on BEUC’s attempts to influence the European institutions. Moreover, BEUC did not launch any polls nor did they host events to include the public in their activities.

Contrary to BEUC, Google actively tried to include the public and attempted to convince them to voice their opinion on the changes to the Copyright Directive. This was done by publications on multiple other online forums, a pop-up message on YouTube that every user would see, and petitions spread online to European users.

GESAC involved European citizens notably less than Google and BEUC. GESAC’s sole focus was on the creative industry. Even though they published some petitions that could be signed online, these petitions were mainly targeting artists from all different sectors of the creative industry. Moreover, GESAC did not acknowledge the impact of the Copyright Directive on European citizens before tech companies started heavily campaigning against the upload filter and the European Parliament was discussing the reports by the differing committees. In table 11 below, the activities to influence public opinion are outlined.

Table 11: Activities to influence public opinion

Public opinion			
Activity	Google	GESAC	BEUC
Publications outside own website/magazines	x		
Events			x
Petitions including citizens	x		

6.4 Responses to the influence attempts

The fourth step in process-tracing is analysing how the European Union institutions responded to the interest groups’ attempts to influence them. Therefore, the responses to the interest group is discussed in the following sections for the European Commission, the European Parliament and the Council separately.

6.4.1 Response from the Commission

The Commission can respond to influence attempts in the initial proposal by including, excluding or acknowledging views put forward by interest groups in their letters and public consultation responses. For example, GESAC was strongly against reforming the panorama

exception in both their letters and public consultation response. In the Commission's proposal, the panorama exception was excluded from any changes (European Commission, 2016b).

Moreover, the communication on the proposal recognizes the need to regulate online platforms that share copyrighted content: 'Copyright infringements on a commercial scale, with infringers free-riding on the work and investment of others, are today a serious threat for European creators, preventing them from deriving a legitimate profit from their creation and thus ultimately discouraging creativity and innovation' (European Commission, 2016a, p. 8). Although not specifically mentioned, the proposal suggests that the Safe Harbour provision must be changed. Furthermore, the proposal introduces the new neighbouring right for publishers and a new mandatory technology to filter uploaded content, which were both preferences of GESAC to be included and of Google and BEUC to be excluded (European Commission, 2016b).

Nevertheless, BEUC's preference to further harmonisation of copyright laws among Member States was also included in this first proposal. Although harmonisation is planned to be gradually, the need for creative and educational content to be available in all EU Member States is put forward in the proposal (European Commission, 2016b).

Even though Google's preferences were excluded from the proposal, their strategy to publish articles on their voluntary efforts were mentioned, albeit not specifically naming Google. Especially Google's 'follow-the-money' principle to fight piracy was positively mentioned in the proposal and the Commission proposed to collaborate with industry players further on these initiatives. The 'follow-the-money' principle states that copyright infringing websites need money to conduct their business. Hence, by cutting their money supply, these piracy websites have to go offline. Google included this initiative in their piracy report by stating that Google does not sell any advertisements to these websites and does not show them in their search results.

From the initial proposal published it is evident that GESAC exerted most influence on the European Commission. In table 12 the attainment of the preferences of each interest group in the proposal is reflected.

Table 12: Preference attainment in the European Commission

Commission			
Position in the Commission’s proposal	Google	GESAC	BEUC
1. No need indicating a need to change the panorama exception.		x	
2. Safe Harbour provision will be changed accordingly to ensure the introduction of new publishers’ rights.		x	
3. No differentiation made between ‘active’ and ‘passive’ platforms.		x	
4. Publishers’ rights are introduced.		x	
5. Harmonisation across Member States is increased regarding cultural heritage institutions and research institutions.			x
6. Content recognition technology introduced as mandatory measures.		x	

6.4.2 Response from European Parliament

In the position adopted by the European Parliament, all three interest groups were listed to have provided valuable input to rapporteur Axel Voss. It is notable that Google’s input is mentioned both under Google and under its platform YouTube.

The European Parliament has made amendments to the Commission’s proposals that are more lenient towards tech companies. Concerning the issue on content recognition technology, the Commission’s proposal stated that online service platforms had to develop technology screening content for copyright protected material. In the text drafted by the European Parliament, however, online service platforms are mentioned to be solely responsible for contributing to such software. The liability for reporting copyright infringement maintains at the rights holders (European Parliament, 2019).

Moreover, the text by the European Parliament is more considerate towards the effects of the Directive on the consumers. In the amendments, the Parliament distinguished ‘active’ from ‘passive’ platforms and solely impose the copyright laws on active platforms. This also touches upon the Safe Harbour provision. BEUC lobbied in support of the Safe Harbour provision to maintain consumers’ freedom to create and ability to share their experience with their peers. The European Parliament has differentiated the ‘information society service provider’ form the 2001 Directive from the new ‘online content sharing service provider’

(OCSSP) in this new Directive. OCSSPs are defined as services 'the main or one of the main purposes of which is to store and enable users to upload and share a large amount of copyright-protected content with the purpose of obtaining profit therefrom, either directly or indirectly, by organising it and promoting it in order to attract a larger audience, including by categorising it and using targeted promotion within it' (European Parliament, 2019, p. 62). Hence, this position places platforms like Google outside of the Safe Harbour provision, but still protect the platforms which solely use UGC. This means that under this text, user-generated content is a copyright exception (European Parliament, 2019) Therefore, the Parliament's position adheres to BEUC's preferences, but not to Google's, as Google was against differentiating between active and passive platforms.

Furthermore, the Parliament's position suggest that artistic work can be effectively protected by measures other than a neighbouring right or content recognition software. The measures mentioned in the position are: transparency of the usage of artistic works, stronger legal position, contract mechanisms and declaration of right to remuneration. The stronger legal position concerns the right of publishers to sue copyright infringers in court, which was not allowed prior to this Directive (European Parliament, 2019).

Even though previous tables showed similarities between the preferences of Google and BEUC, the Parliament's position addresses the small differences between the two interest groups. For example, Google did not want a differentiation between active and passive platforms, nor did they want this differentiation to be incorporated in the revised Safe Harbour provision. BEUC, however, wanted to differentiate between active and passive platforms and revise the Safe Harbour provision and the publishers' rights solely for the active platforms. Resulting from the Parliament differentiating between active and passive platforms and incorporating this differentiation in other articles of the Directive, BEUC has attained more preferences than Google.

In short, whereas GESAC had most of its preferences attained in the proposal by the Commission, it was not as successful in the European Parliament. Instead, BEUC and Google had important preferences attained. In table 9 below, the attainment of each preference is shown.

Table 13: Preference attainment in European Parliament

Parliament			
Adopted position	Google	GESAC	BEUC
1. Panorama exception is excluded from this position.		x	
2. Safe Harbour provision is maintained for ISSPs, but OCSSPs are excluded from this provision.		x	x
3. Differentiate between ‘active’ and ‘passive’ platforms by introducing OCSSPs.			x
4. Publishers’ rights should only be introduced to OCSSPs, but excludes snippets and hyperlinking.			x
5. Harmonisation across Member States is increased regarding cultural heritage institutions and research institutions.			x
6. Content recognition technology should not be mandatory, instead, OCSSPs need to increase transparency towards authors about the use of their works.	x		x

6.4.3 Response from the Council

The position of the Council is fairly similar to the proposal of the Commission. Nevertheless, there are two distinct differences.

The first distinct difference between the position of the Council and the proposal of the Commission, is the differentiation between large, and smaller- and medium online services. On the issue of content recognition technology, the Council states that large online service platforms are liable to copyright infringing material. However, as they acknowledge that small and medium enterprises do not have the resources to develop extensive content recognition technology, small and medium enterprises can only be held liable when ignoring a request made by rights holders to delete content. Hence, the Council states that for large online service platforms like Google it is mandatory to have an upload filter (Council of the EU, 2019).

The second difference that is notable in the Council’s statement, is the role of the Member State. Although the Commission does include the Member State in mediating copyright disputes, the Council attempts to increase the role. This is done by allowing the Member State to judge copyright cases in their national courts under national law.

Similar to the Parliament, the Council also differentiates between active and passive

platforms by using the term OCSSP. Moreover, the Council agrees with the Parliament about the exclusion of snippets and hyperlinking concerning the issue of a new publishers’ right (Council of the EU, 2019). In table 14 below, the attainment of each interest group’s preferences is outlined.

Table 14: Preference attainment in the Council

Council			
Preference	Google	GESAC	BEUC
1. Panorama exception is excluded from this position		x	
2. Safe Harbour provision is maintained for ISSPs, but OCSSPs are excluded from this provision.		x	x
3. Differentiate between ‘active’ and ‘passive’ platforms by using OCSSPs.			x
4. Publishers’ rights should only be introduced to OCSSPs, but excludes snippets and hyperlinking.			x
5. Harmonisation across Member States restricted to certain institutions and parameters.		x	
6. Content recognition technology is mandatory for certain platforms. The size, nature of services and the availability of the costs determines whether a platform needs to introduce monitoring services.		x	

6.5 Reflection on the final Directive

In order to determine to what extent the preferences of each interest group are reflected in the final directive, the following paragraphs discuss each preference separately.

6.5.1 Panorama exception

The panorama exception was the subject of the Commission’s public consultation. However, after the consultations and other research conducted by the Commission, the panorama exception was not taken under the loop in the Commission’s proposal. Instead, the Commission recognized that there was no market failure indicating a needed change to the panorama exception. This argument was made by GESAC in the response to the public consultation and multiple open letters to Commissioners.

Within the European Parliament, the party ALDE tried to include an extension of the panorama exception in the adopted position (Schaake, 2018). However, this attempt was not successful. In the Council, no record of a discussion on the panorama exception was found. Hence, resulting from the Commission's choice to maintain the panorama exception in its current state, the panorama exception was excluded from the final Directive. These decisions reflect GESAC's influence in the Commission, as GESAC lobbied against revising the panorama exception. However, ALDE's attempt to extend the panorama exception reflects the views of Google and BEUC.

6.5.2 Safe Harbour provision

The final Directive states that the exceptions in the 2001 E-commerce Directive regarding the Safe Harbour provision should be revised and changed according to the new publishers' right. Hence, online content sharing service platforms are no longer protected from sharing copyright protected material. Instead, the provision needs to be changed for the publishers' right to be introduced.

Although GESAC lobbied for completely abolishing the Safe Harbour provision, the adjustments that are made to the protection provides them with the opportunity to negotiate contracts. As mentioned in the Directive, the role of collective management organisations is deemed important, which was another value of GESAC.

Google's preference to maintain the Safe Harbour provision is attained, as the provision is solely changed. However, the changes to the provision resulted in Google being excluded from the provision. Hence, Google can no longer enjoy the protection from the Safe Harbour provision. Therefore, Google attained only half of its preference.

Similar to Google, BEUC supported maintaining the Safe Harbour provision. Contrary to Google, BEUC wanted to maintain this provision to ensure the freedom of expression, ability to share and accessibility to information for consumers. As will be explained in the following paragraphs, the adjustments to the Safe Harbour provision should not damage these activities.

6.5.3 Active and passive platforms

The final Directive differentiates between the traditional ISSPs and the newly introduced OCSSPs. Platforms which solely exist for users to upload content for their own private use, are not included concerning the new publishers' rights. Furthermore, users do obtain the right to file a complaint when their uploaded material is deleted or blocked due to copyright infringement.

GESAC was strongly against differentiating between platforms and granting users an exception for user-generated content. Considering the differentiation between ISSPs and OCSSPs in the Directive, GESAC's preference regarding active and passive platforms was

not attained.

Google did not support the differentiation between active and passive platforms, as they preferred both active and passive platforms to be protected under the Safe Harbour provision. In the final Directive, a differentiation was made between ISSPs and OCSSPs. As Google does organise the data for profitable means, Google is an OCSSP. Hence, Google is excluded from the Safe Harbour provision and therefore did not attain this preference.

BEUC strongly supported the distinction between active and passive platforms in order to create an exception for user-generated content. As the final Directive only excluded OCSSPs from the Safe Harbour provision, platforms on which users can upload their own content are still protected under the provision. Hence, BEUC attained its preference.

6.5.4 Publishers' rights

In the final Directive, publishers are granted new rights. The Directive states that 'an online content sharing service provider shall therefore obtain an authorisation from the rightholders [...], for instance by concluding a licensing agreement, in order to communicate or make available to the public works or other subject matter' (European Parliament & Council of the European Union, 2019, p.119). However, the Directive does state that short extracts of publication nor hyperlinking fall under this protection. Moreover, the rights do not apply to the private use by individual users of press publications either.

Regarding GESAC, the preference to get new rights for publishers is attained. However, considering the exclusion of hyperlinking and snippets, the new rights are not as developed as GESAC initially wanted. Still, publishers have a stronger negotiation position than prior to this Directive.

The main preferences of Google were not attained in this Directive. Google has to negotiate licenses with publishers to publish publication on their platforms and the Directive states online content sharing service platforms are not allowed to negotiate contracts with only selected publishers. Nevertheless, the outcome is not negative for Google. When discussing the new publishers' rights, Google voiced their concern about not being able to share snippets of text, which is allowed under this Directive. Moreover, as hyperlinking is allowed as well, publications can still be shared across their platforms.

Although BEUC was concerned with the effects of a new publishers' right on users, the exclusion of private uses, snippets and hyperlinking do not limit consumers' ability to get access to diverse news sources. However, this is still dependent on the extent to which Google and the publishers can negotiate successful licenses.

6.5.5 Harmonisation between Member States

The harmonisation between Member States is significantly reduced in the final Directive

compared to the Commission's proposal. In this proposal, harmonisation was extended cross-borders for educational and scientific purposes on online services aligned with authorised educational and scientific institutions. However, in the final Directive, this is limited to solely the establishment of authorised institutions. The interest group that had the strongest preference for this cross-border access was BEUC. Their preference was not attained for this matter.

Google and GESAC voiced their preference for this matter significantly less than BEUC. Nevertheless, for GESAC it was evident that they wanted the regulation for this matter to remain at the Member State and the contracts to not be eligible across borders. Google wanted further harmonisation overall. Hence, BEUC did not attain this preference and GESAC did.

6.5.6 Content recognition technology

Regarding the content recognition technology, the final Directive states that this should not be mandatory. Instead, a platform is liable when they have granted access to notified copyright infringing material to the public without having done their best effort to prevent this. Moreover, the Directive differentiates between smaller-sized and large platforms on their ability to detect this material and responsibility to prevent it.

Therefore, the preference of GESAC to introduce mandatory monitoring services is not attained. Instead, the system of rights holders indicating whether or not the material is protected by copyright maintains. Nevertheless, the Directive states that online platforms should be completely transparent to the rights holders on the usage of their material.

Google lobbied extensively to keep the content recognition software as a voluntary measure by online platforms and was strongly against making these measures mandatory. From this Directive, Google attained this preference completely to their favour.

The main concern of BEUC was the limit on the ability to express, create and share their identity and experiences due to these filters. However, the system of rights holders notifying platforms remains intact. Therefore, BEUC attained this preference.

In table 15 below, the attainment of each interest groups' preferences is indicated. Please note that in this table the symbol '/' means that the preference was attained to some extent but not fully and the symbol 'x' means attained. The total number of attained preferences was determined by counting one full point for every preference attained and a half point for half preference attained. For example, GESAC has three attained preferences and one half attained preferences. Therefore, their total amount of attained preferences is 3.5.

Table 15: Preferences attained in the final directive

Issues	Final Directive	Google	GESAC	BEUC
1. Panorama exception	Excluded.		x	
2. Safe Harbour provision	Mutatis mutandis in light of the publishers' rights and increased transparency efforts.		/	/
3. Differentiation active and passive platforms and user-generated content	Differentiated between ISSPs (passive) and OCSSPs (active). ISSPs are excluded from the scope of the Directive.			x
4. Publishers' rights	Need to negotiate licensing agreements but excludes snippets and hyperlinking.	/	x	/
5. Harmonisation between Member States	No.		x	
6. Content recognition technology	Not mandatory, the notice-and-takedown system remains.	x		x
Total		1.5	3.5	3

6.6 Interest group satisfactions with the outcome

Finally, the satisfactions of the interest groups with the final Directive is assessed. This is done by analysing the responses of Google, GESAC and BEUC to the adoption of the final text.

Google has not made any statements responding to the final Directive on Copyright on its own company page. However, the lobby association CCIA which represents Google among other tech companies like Apple, Facebook, Microsoft and Amazon has responded to the final Directive. Resulting from the missing response from Google as a company, the response of CCIA will be used to assess Google's satisfaction with the final outcome.

The response by CCIA is relatively short, but clearly portrays the dissatisfaction with the outcome. Especially the decisions regarding the publishers' rights and the upload filter are the source of dissatisfaction. Their response states: "Despite recent improvement, the EU Directive falls short of creating a balanced and modern framework for copyright. We fear it will harm online innovation and restrict online freedoms in Europe. We urge Member States to thoroughly assess and try to minimise the consequences of the text when implementing it" (Sacquet in Greenfield, 2019, p.6).

Contrary to Google, GESAC called the final Directive a 'historic victory' (GESAC, 2019).

In their view, the Directive ensures rights holders to receive fair remuneration of their work and enable them to exercise their rights. Moreover, the final outcome is seen as an achievement compared to the tech giants. This is evident in their response: 'This was not only a crucial decision for creators and our sector, but also sent a strong message to citizens that tactics of intimidation and manipulation from a handful of giant companies will not be allowed to influence European policy making' (Debrosses in GESAC, 2019, p. 3).

Regarding BEUC, only a tweet was found in response to the final Directive. Although a tweet cannot contain many characters, it was evident that BEUC was disappointed by the outcome: 'As a consequence, today's reality of sharing own creations online - without commercial interest whatsoever, just for fun like millions do - will be at risk. It's disappointing to see consumers sidelined in this important debate' (BEUC, 2019).

In short, from the interest groups' responses, it becomes evident that GESAC was satisfied with their influence. Their response states that they see it as a victory and suggests their satisfaction of gaining more than tech giants. BEUC and Google, however, are disappointed with the outcome.

Chapter 7: Results

In this chapter, the results from the preference attainment and process-tracing methods are discussed. This is done by assessing each prediction separately. Therefore, the next sections refer to the corresponding theory and its predictions.

7.1 Logic of collective action

For the logic of collective action, the interest groups were divided between two groups: diffuse interests and special interests. The diffuse interest groups represent the interest of European citizens. Hence, the diffuse interest groups in this thesis is BEUC. The special interest groups represent the interests of a certain profession, sector, organization. In this thesis this category consists of Google and GESAC. From these interest groups, Google has the most specialized interests, as they are solely representing their interest as a company. This is contrary to GESAC, as they represent creators from different sectors. In the following paragraphs, the predictions related to the logic of collective action are answered and stated whether they are confirmed or not.

7.1.1 Ability to mobilise its members

The first prediction stated: the interest group with special interests is able to organise more effectively than the interest groups with diffuse interests. Analysing the activities of Google, GESAC and BEUC, it becomes evident that GESAC could easily mobilise its members. As GESAC is an umbrella organisation, they represent 33 societies (GESAC, 2016a). This was beneficial as GESAC sent multiple joint letters to European institutions. Signature parties other than GESAC were member societies of GESAC, but also other organisations representing the creative sector were involved.

Furthermore, GESAC was able to move many artists, among which well-known names like Paul McCartney, to co-sign letters and petitions supporting GESAC's views. Moreover, GESAC hosted multiple events at which artists could meet MEPs and open a dialogue on the Copyright Directive (GESAC, 2017).

Contrary to GESAC, Google and BEUC had a harder time to mobilise members. Compared to GESAC, Google and BEUC had significantly less joint press releases, did not seek out media outlets besides their own website and no record was found of either interest group hosting an event concerning the Copyright Directive.

However, regarding BEUC's activities, it should be noted that during negotiations for the Copyright Directive, another proposal concerning cross-border broadcasting and online streaming services, which touched upon some issues discussed in the Copyright Directive as well, was happening simultaneously. For these issues, BEUC did host an event inviting MEPs.

At these events, there might have been some discussion about Copyright-related issues, but there is no record of this.

Considering the differences between GESAC, Google and BEUC in their ability to organise, the first prediction stating the interest group with special interests is able to organise more effectively than the interest groups with diffuse interests is not confirmed. This prediction could not be confirmed due to Google's behaviour. Even though GESAC and BEUC adhered to the expectations related to their type of interest group, Google did not. GESAC, as a special interest group, could easily mobilise its members and BEUC, as a diffuse interest group, had difficulty mobilising. However, Google, as a special interest group, could not mobilise its members and therefore does not conform to the expectation stated in this prediction. Instead, Google's ability to mobilise is more in line with expectations of a diffuse interest group.

7.1.2 Seeking media attention

The second prediction stated: diffuse interest groups are more likely to seek media attention than special interest groups. Analysing the use of media by the interest groups, BEUC was least active in exploiting external media channels. No article written by BEUC was found on other blogs, websites, newspapers or magazines. Additionally, no record was found on a TV appearance by BEUC regarding the Copyright Directive. Nevertheless, BEUC was quoted in articles in Politico and Euractiv.

However, GESAC was a bit more active compared to BEUC. Similar to BEUC, they were quoted in articles in Politico and Euractiv. Furthermore, GESAC published several articles on European Movement International in 2016. Also, a representative of GESAC appeared in a BBC interview. GESAC also published articles alongside other organisations representing artists. These articles appeared on blogs related to the creative industry, like Music Business Worldwide.

From the three interest groups, Google was most active in sharing its message across several media outlets. Google exploited its own channels, via its Search Engine, YouTube and related platforms. Furthermore, the group 'YouTube for Creators', a group constituting of successful YouTube artists that receive funding from Google, wrote an article on Politico. Moreover, Google published multiple articles on blogs concerning tech, innovation, and digital and consumer rights. Additionally, several articles endorsed by Google appeared in The Financial Times.

Hence, lobbying the Copyright Directive the diffuse interest group BEUC was not as active in using the media to convey its message as Google and GESAC. Therefore, the prediction stating that diffuse interest groups are more likely to seek media attention than special interest groups is not confirmed.

7.1.3 Forming public opinion

The third prediction stated: diffuse interest groups are more successful in forming public opinion to exert influence than special interest groups. Regarding the activities to form public opinion, GESAC was least active. GESAC rather focused on the creative sector and the EU institutions than to include the public in it. Although GESAC did spread a petition that received 31,000 signatures from creators, but this cannot be categorized as an attempt to influence opinion, nor as approaching the public.

Similarly, BEUC did not involve the European citizens in their activities either. Even though BEUC claims to represent consumer interests, BEUC did not portray their efforts to protect consumer interests to the consumers.

Google, however, did actively approach the public, or as coined by Google, their 'users'. Google used their own online platforms to make users aware of the copyright debate and outlined the effects the Copyright Directive would have on them. Moreover, Google involved their users via blog posts, pop-up messages and petitions. Even on Twitter, UK Labour MP Jess Philips tweeted that both her urged her to speak out against Article 13, because it would affect their experience on YouTube (Philips, 2018). Consequently, YouTube is filled with videos, from both well-known YouTubers and smaller accounts, urging people to speak out against the Copyright Directive, especially Articles 11 and 13. On YouTube's blog, Google has published videos by YouTubers and testimonials from users stating the importance of avoiding Article 13 (<https://www.youtube.com/saveyourinternet/>).

As Google, although a special interest group, was most successful in forming public opinion, the prediction stating that diffuse interest groups would be more successful is not confirmed. GESAC did act according to expectations surrounding special interest groups. However, BEUC did not act as is expected from a diffuse interest group, nor did Google act as expected a special interest group.

7.2 Access theory

The theory of access suggests that the influence of interest groups is dependent on their possession of an access good and the ability to offer this access good to the appropriate institution.

7.2.1 Expert knowledge

The first prediction relating to access theory stated: the interest group claiming to have expert knowledge exerts influence in the European Commission. In table 16 below, the amount of meetings with the members of the Commission are ranked per interest group. In this table, GESAC has had most meetings with members of the European Commission regarding the Copyright Directive and BEUC the least.

Moreover, GESAC repeatedly mentions their representation of 33 artist societies, their number of members and their coverage of every EU and EEA country. Additionally, they base their answers and letters on the experience of their artists and CMOs in the field (GESAC, 2016a). The support of well-known artists contributes to GESAC’s position of professional organisation and portrays them as an expert in their field.

Although BEUC is member to more expert groups to the Commission than Google or GESAC, BEUC does not represent itself as a group having expert knowledge of the creative sector. Instead, BEUC positions itself as having expert knowledge on European consumers.

Google does represent itself as an expert in the digital creative economy, but this is done in an indirect way by outlining their efforts of fighting copyright infringement. Google emphasizes their collaboration with the creative sector to make progress on a voluntary basis.

In table 16 below, the number of Commission meetings reflect the degree to which the interest groups portray themselves as an expert. GESAC positions themselves the strongest as experts and do this by targeting the Commission directly. Google positions themselves as expert as well, but do this in a more indirect way and BEUC barely portrays themselves as an expert.

Considering the number of meetings, the inclusion of GESAC’s preferences in the Commission’s proposal and GESAC strongly positioning itself as an expert in the field, the prediction stating the interest group claiming to have expert knowledge will exert influence in the European Commission is accepted.

Table 16: The amount of recorded Commission meetings

Interest group	Commission meetings
GESAC	25
Google	21
BEUC	16

Source: Corporate Europe Observatory. (2018)

7.2.2 European encompassing interests

The second prediction of the access theory was: the interest group claiming to have knowledge on EEI exerts influence in the European Parliament. Following the logic of access theory, BEUC, as representing European consumers, should be the most influential in the European Parliament. BEUC was heavily emphasizing on the interest of the consumer. They had surveys across the European Union including citizens and MEPs. These surveys both had questions regarding copyright rules, and it portrayed situations consumers experience daily. This was followed by the question asking if the action taken in the example was legal or illegal. The results of this survey were transformed to easily readable fact sheets and were published in

BEUC's website and sent to MEPs.

Regarding BEUC's lobbying efforts, the European Parliament was the main focus. Compared to the Commission and the Council, BEUC put most of its efforts into writing letters to rapporteurs directly and to multiple European parties. In table 17 below, it is shown that BEUC has by far the most passes granting access to the European Parliament among the analysed interest groups. Moreover, the adopted position of the European Parliament clearly favoured the position of BEUC. Whereas the proposal by the Commission only attained one of BEUC's preferences, the position of the Parliament attained all relevant preferences. This reflects the shift from the Commission focusing on expert knowledge to the interest of Parliament to assess the interests of European citizens.

Google did not attain as many preferences in the Parliament's position as BEUC. A reason for this can be that Google was not particularly active in lobbying the Parliament. As explained previously, Google's main strategy was to indirectly outline their voluntary efforts to show further regulation was not necessary. Additionally, as shown in table 17, Google did not have as much access to the Parliament as BEUC did.

What is interesting is that Google discussed the negative effects of the Copyright Directive on the European consumers as well. However, Google did not call them citizens, Europeans or consumers like BEUC, but instead repeatedly referred to them as users.

Although GESAC was active in lobbying the Parliament by hosting multiple events and writing many letters to MEPs, their efforts were not as successful as BEUC's. This might be explained by GESAC solely focusing on the creative sector and not involving European citizens at all. GESAC started mentioning the interests of Europeans in a later phase, when the debate on the Copyright Directive started to heat up in the Parliament. Still, even when GESAC did mention how their preferences would benefit European citizens, it was solely a mere mention. With one sentence, GESAC would state that their plans would not affect, and even benefit, European consumers but no explanation was given to how these plans would result in a beneficial outcome for consumers.

Considering the overwhelming change between the Commission's proposal and the Parliament's adopted position, having regards to BEUC's efforts and self-portrayal as representation of European citizens, it can be said that the Parliament did focus on the effects on the European consumer. Therefore, the prediction stating that the interest group claiming to have knowledge on EEI exerts influence in the European Parliament is confirmed.

Table 17: Passes to European Parliament per interest group

Interest group	Parliament passes
BEUC	26
Google	7
GESAC	5

Source: *lobbyfacts.eu*

7.2.3 Domestic encompassing interests

The final prediction of access theory is: the interest group claiming to have knowledge on DEI exerts influence in the Council. In the data collected for this thesis, there was no record of any interest group approaching an individual Member State. However, the interest groups did differ in their opinion on the role of the Member State in the new Copyright Directive. Whereas BEUC wanted harmonisation among Member States’ copyright rules, GESAC emphasized the importance of individual Member States in the regulation of copyright and mediation in copyright infringement disputes. Google will not be elaborated on in the following paragraphs, as Google did not mention anything related to the Council and barely mentioned the role of the Member State in the Copyright Directive.

GESAC approached the Council through several letters. These letters stated GESAC’s value to the Member States remaining active in matters related to the Copyright Directive. Additionally, GESAC surveyed citizens in Member States that were swing votes in the Copyright Directive. These results were used to show the interest in Member States were aligned with GESAC’s views.

Compared to GESAC, BEUC was less active in approaching the Council. BEUC did write a letter addressing both the Council and Parliament. However, in this letter, BEUC conveyed their views that the Member State should reduce their individual laws on copyright and harmonise them to increase cross-border access to content.

Moreover, as outlined in the previous chapter, GESAC had the most attained preferences compared to the other two interest groups. This might be explained by GESAC having invested in surveying citizens residing in swing Member States. Additionally, the favourable position in the Council of GESAC could be explained by the similar preference regarding the interest of the Member States itself, the prediction stating that the interest group claiming to have knowledge on DEI exerts influence in the Council is confirmed.

7.3 Interest group strategy

Interest group strategy discusses the routes interest groups can use to lobby the European Union. There are two main options to exert influence: insider and outsider strategy. Insider

strategy entails accessing European institutions. Outsider strategy involves influencing public opinion.

7.3.1 Approaching public opinion

The first prediction on interest group strategy is: diffuse interest groups are more likely to attempt to influence public opinion than EU officials. In the data collected for this thesis, there was no record of BEUC attempting to influence public opinion. Instead, BEUC involved the public by distributing surveys and fact sheets. GESAC published multiple articles on external websites. However, the platforms used by GESAC were mainly engaging professionals in the creative industry. Hence, GESAC did not actively approach European citizens. Still, this behaviour is in line with expectations for a special interest group.

Contrary to their lobbying activities towards European officials, Google was very active in approaching European consumers, or Google's European users. As outlined in the previous chapter, Google approached users from multiple blogs and extensively used their own online platforms to inform users of the Copyright Directive and what effect the new rules would have on their usage. On a pop-up message that would show to everyone opening YouTube, the importance of users speaking out against the content recognition technology was voiced.

Hence, Google was the most active in attempting to form public opinion yet is an interest group representing a special interest. GESAC, however, did act as a special interest group and BEUC acted as a diffuse interest group. Nevertheless, considering Google did not act as a special interest group, the prediction stating that diffuse interest groups are more likely to attempt to exert influence on the public is not confirmed.

7.3.2 Approaching EU officials

The second prediction stated: Special interest groups are more likely to attempt to influence EU officials. Following the theory on interest group strategy, interest groups representing special interests, Google and GESAC in this thesis, would be more likely to approach EU officials than groups representing diffuse interests, which is BEUC in this thesis. However, this thesis shows that this prediction does not hold up for the Copyright Directive. Instead, BEUC was very active in approaching EU officials and less active in engaging the public. Google, however, acted completely opposite from BEUC. Google used the platforms at their disposal to engage the public in the copyright debate and was less active in approaching EU officials. This is evident from Google's strategy seeming to publish press releases only stating their voluntary efforts instead of directly approaching EU institutions.

For the prediction stating that special interests are more likely to seek out EU officials, GESAC was the only interest group that confirmed this prediction. GESAC, as a special interest group, was solely approaching EU officials. Still, BEUC and Google acted opposing

this prediction, which does not confirm this prediction.

7.4 Interest group characteristics

The following paragraphs discuss the influence caused by interest group characteristics.

7.4.1 Financial resources

The firsts prediction formulated regarding interest group characteristics stated: the interest group with the most financial resources is most influential. As shown in table 18 below, Google has spent the most money on lobbying the EU from the interest groups. GESAC, on the other hand, has spent the least. Still, as outlined in Chapter 6, GESAC was most successful in attaining its preferences and Google the least. Nevertheless, analysing Google's activities and the strength and multitude with which they voiced their preferences, Google did attain its most important preference, the content recognition technology. It could be possible that Google spent most of its money on countering Article 13 and neglected lobbying its other preferences. However, based on the gathered data, the prediction stating that the interest group with the biggest financial resources is most influential cannot be confirmed.

Additionally, it should be noted that the expenditure presented in table 18 indicates the total expenditure per year. Hence, these financial resources are distributed among lobbying activities for several EU directives and regulations. The expenditure on solely the Copyright Directive is unknown. However, considering GESAC's representation of the creative sector, which highly valued the copyright reform, its high activity in every EU institution and the multiple events they hosted, it can be speculated that GESAC concentrated most on the Copyright Directive out of all three interest groups. BEUC, however, is such a diverse organisation active in many policy fields that it probably had less of a budget to lobby the Copyright Directive. Considering CCIA, the organisation representing the tech industry including Google, was active in lobbying the Copyright Directive, it is possible that Google did not spent most of its budget in this Directive. Instead, Google may have focused on the upcoming policies regarding fake news and geographical blocking. The relatively low amount of activity to lobby the EU by Google can also suggest that a rather low percentage of their budget was invested in the Copyright Directive.

Table 18: Total yearly expenditure for lobbying EU per interest group

Interest group	Total lobby expenditure in euros
Google	6,000,000 – 6,249,999
BEUC	2,500,000 – 2,749,000
GESAC	900,000 – 999,999

Source: *lobbyfacts.eu*

7.4.2 Membership size

In this section, the second prediction related to interest group characteristics is assessed, which stated: the interest group with the largest membership size is most influential. Although BEUC represents the largest group, namely all European consumers, BEUC’s actual membership size is rather small. Precise numbers could not be found, but it is known that BEUC contains 45 consumer groups (BEUC, n.d.). GESAC represents less member societies, namely 33, but repeats multiple times that it represents more than 1 million artists (GESAC< 2016a). Google has a total of 98,771 employees worldwide. The exact number of employees of Google Europe is unknown (Statista, 2019).

Regarding the outcome of the final Directive, in which GESAC has the most attained preferences out of the analyses interest groups. Considering GESAC mentioned their vast membership many times and the degree of attained preferences, the prediction stating that the interest group with the largest membership size will be most influential is accepted.

In table 19, the theories are shown with the corresponding predictions and whether these predictions are confirmed. Based on this table, access theory best explains the lobby influence of Google, GESAC and BEUC in the European Copyright Directive. This results from all predictions based on the theory of access are confirmed in this thesis.

Table 19: Results of the predictions.

Theory	Prediction	Confirmed?
1. Logic of collective action	1.1 Interest group with special interests was able to organise more effectively than the interest group with special interests.	No.
	1.2 Diffuse interest groups are more likely to seek media attention than special interest groups	No.
	1.3 Diffuse interest groups are more likely to form public opinion than special interest groups.	No.
2. Access theory	2.1 The interest group claiming to have expert knowledge exert influence in the European Commission	Yes.
	2.2 The interest group claiming to have knowledge on the European opinion exerts influence in the European Parliament.	Yes.
	2.3 The interest group claiming to have knowledge on national interests exerts influence in the Council.	Yes.
3. Interest group strategy	3.1 Diffuse interest groups are more likely to attempt to influence the public.	No.
	3.2 Special interest groups are more likely to attempt to influence EU officials.	No.
4. Interest group characteristics	4.1 The interest group with the biggest financial resources is most influential.	No.
	4.2 The interest group with the largest membership size is most influential.	Yes.

Chapter 8: Discussion and conclusion

This thesis set out to answer the research question: Does logic of collective action, access theory, interest group strategy or interest group characteristics better explain the influence exerted by Google, GESAC and BEUC lobbying the EU Copyright Directive? The four theories mentioned in the research question were derived from existing literature on lobbying, influence, interest groups and the European Union. The logic of collective action entails that interest groups representing special interests are more likely to act collectively. Resulting from their ability to mobilise, special interests have more access to the policy process than diffuse interests. As the benefits reaped by diffuse interests have to be divided on many more people, individuals within the organisation are less likely to mobilise effectively (Hix & Høyland, 2011).

The theory of access by Bouwen (2002) refers to the idea that influence is decided by supply and demand and views the EU institutions and interest groups as interdependent organisations. The interdependence stems from the EU institutions requiring knowledge the interest groups possess to draft legislation and the interest groups needing the EU institutions to act on their preferences. The influence an interest group can exert is thus dependent on the access good they possess and their ability to provide the appropriate EU institution with the critical good (Bouwen, 2002).

Interest group strategy discusses access as well. However, interest group strategy focuses on the route which interest groups choose to follow, whether this is insider or outsider strategy. The insider strategy refers to the route of lobbying EU officials. The outsider strategy means approaching the public to influence public opinion and exert influence on EU policy-making indirectly. Following the logic of this strand of theory, diffuse interest groups would be more likely to approach the public, whereas interest groups representing special interest would be more likely to directly lobby the EU institutions (Beyers, 2004; Binderkrantz, 2005).

Finally, interest group characteristics were tested. This strand of theory outlines the importance of characteristics like financial resources, membership size and advocate type. According to this theory, the interest group with the largest financial resources and most members would be most influential (Dür & de Bievre, 2007; Mahoney, 2007).

This thesis conducted the methods process-tracing and preference attainment to determine which interest group was most influential. For the preference attainment, six issues over which the interest groups lobbied were identified and analysed to what extent each interest group attained its preferences. For the process-tracing, the interest groups' attempts to exert influence, the responses to these influence attempts and their dissatisfaction with the final outcome were assessed. With the information derived from these methods, the predictions were answered.

Based on the confirmations of the predictions, this thesis shows that access theory best explains influence exerted during lobbying the EU Copyright Directive. All the predictions

corresponding to this theory were confirmed in the case of the EU Copyright Directive. Therefore, this thesis concludes that the relation between interest groups and EU institutions is indeed an exchange of access goods. The influence that interest groups can exert on EU institutions depends on the access goods interest groups possess that the particular EU institution needs. This thesis has shown that the group with the most expert knowledge exert most influence on the European Commission, the group with the most knowledge on European interests on the European Parliament and the interest group with information on domestic interests is most influential in lobbying the Council.

Comparing the number of confirmed predictions relating to the access theory to the number of confirmed predictions of the other theories, it is evident that the other theories do not effectively explain exerted influence in the case of the EU Copyright Directive. The interest group characteristics theory was solely confirmed concerning membership size and not for financial resources and advocate type. For the logic of collective action and the interest group strategy, none of the expectations held up in the case of the EU Copyright Directive.

The low confirmation of the interest group strategy, interest group characteristics and the logic of collective action compared to the high confirmation of the access theory shows that the influence an interest group can exert is not dependent on the type of interest group. At the least, this thesis shows that corporations directly lobbying the EU do not fit into the theories differentiating between special and diffuse interests, and between professional and consumer groups. Nor does Google fit into the frame that the wealthiest group wins.

One reason for the interest group and the Copyright Directive not conforming to the established theories can be Google's non-European roots. As explained by Bernhagen and Mitchell (2009), non-EU actors can be disadvantaged by their lack of a national representative safeguarding their interests and lacking the ability to argue representation of European interests. Whereas BEUC and GESAC are established European organisations and have member organisations in multiple member states, it is possible that they were able to effectively use this widespread presence of the organisation to exert influence on national representatives in the EU.

Another reason can be Google's unfamiliarity to the EU policy-process. As an American company, Google might be used to the American style of lobbying. However, the EU differs greatly in its decision-making procedure and lobbying structure from the US. Google's attitude conforms to the idea in American lobbying that arguing a sector does not need regulation is an effective strategy. However, the EU is not as responsive to arguments of self-regulation than the American policy-making processes (Bouwen, 2009; Kayali, 2019).

Furthermore, EU institutions might have made the conscious decision to favour the artistic sector in the Copyright Directive. As the creative sector was not only lobbying for their copyright preferences, they were also lobbying heavily against Google. In their campaigns,

they were portraying Google's actions, and any tech company for that matter, as manipulative and false. GESAC even published a booklet written by one of the member organisations, Europe for Creators, on the damage YouTube has done on EU policy-making named 'The YouTube case: Public debate in Europe under attack' (Europe for Creators, 2019, p. 1). This booklet contained an open letter to YouTube's CEO stating their unprecedented and unethical behaviour (Europe for Creators, 2019). With this and other publications, GESAC portrayed Google as an enemy to the integrity of EU policy-making.

Finally, Google's position and self-portrayal was not as focused as GESAC's or BEUC's. Whereas GESAC and BEUC clearly voiced whose interests they represent, Google was portraying itself as the group that was beneficial to everyone. Google mentioned the advantages of their business model on both users, SMEs, big publishers, individual creators, start-ups and the economy as a whole. Hence, Google as a special interest group portrayed itself as a diffuse interest group. This is evident in the results of this thesis. The predictions could not be confirmed regarding special and diffuse interests because Google never conformed to the strategy nor influence of a special interest group.

This thesis has several limitations. In the following paragraphs, these limitations are outlined. In some cases, these limitations are followed by a suggestion for future research.

The first limitation is in regard to the chosen method of this thesis. As this thesis conducts a case study, the number of interest groups is small. The three interest groups that were included in this study, combined with the focus on only directive by the European Union cannot make conclusions that are generalizable to other directives and/or interest groups. For future research it is suggested to use a quantitative approach to increase generalizability by including more interest groups and directives. However, the decision to follow the case study method was made consciously in consideration of the time available and, more importantly, the amount of data available.

Besides the amount of data that could be gathered for this thesis influencing the chosen method, it also causes another limitation of this thesis. Although the EU is increasing its transparency, lobbying still happens in the shadows. Therefore, there is a possibility that this thesis did not consider valuable information on lobbying activities and responses because no records of this were available publicly. Still, this thesis attempted to decrease the effects of EU institutions and interest groups not publishing all information on their formal websites by including a vast array of sources to analyse and check the gathered data.

Deriving from the conclusions made in previous paragraphs, a suggestion for future research could be to study the effects of counter-campaigning. Counter-campaigning entails campaigning against another campaign rather than campaigning about preferences. In the Copyright Directive, the influential creative sector lobbied heavily against Google as a company and the industry it represents. Consequently, the creative sector framed its own

preferences as the morally right thing to do. Considering the theories were not confirmed in this thesis, evaluating other factors like counter-campaigning might contribute to interest group and lobbying literature.

Furthermore, future research can focus on the extent to which non-EU actors, particularly corporations, fit into the current interest group literature. As this thesis shows that Google did not conform to these theories in the EU Copyright Directive, it can be valuable to assess whether more non-EU corporations differ from this status quo. The number of non-EU actors, as well as the number of corporations directly lobbying the EU is increasing and theories about EU lobbying might have to change with the landscape.

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